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COMMITTEE ON PUBLIC WORKS

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1 Senator Eagleton. Why don't we make the hearings public?

2 Senator Muskie. If we continue to get such active reporting  
3 as we got this morning, we don't need to make them public. We  
4 can have it both ways.

5 I wonder if there might be included in the record of the  
6 hearings -- are they still open?

7 Mr. Billings. No, not the hearings.

8 Senator Muskie. I was wondering if we could include the  
9 document that the Ford Motor Co. has published as part of the  
10 record, so that it would be clear that this committee has con-  
11 sidered the objections raised by the industry.

12 Senator Eagleton. Could we report it in the report on the  
13 bill? A footnote?

14 I guess the hearing thing has been printed, hasn't it,  
15 Leon?

16 Senator Muskie. They printed their own anyway.

17 The Chairman. Dick, will you and Leon please give us the  
18 status of our consideration, and we will resume.

19 Mr. Royce. Mr. Chairman, we yesterday voted on amendments  
20 to Section 202(B), and the Cooper Amendment was adopted by the  
21 committee by a vote of 10 to 3, and pending was an amendment sub-  
22 mitted by Senator Dole to the Cooper Amendment, and that, I  
23 think, would be the order of business this morning, the first  
24 order of business, Mr. Chairman.

25 The Chairman. You have heard the explanation as we understand

1 it. Is there any comment from any member as to what has been  
2 said?

3 All right, any member is recognized.

4 Senator Dole. Mr. Chairman?

5 The Chairman. Bob, yes.

6 Senator Dole. Mr. Chairman, yesterday I offered an amendment.  
7 Today I withdraw that amendment and offer another amendment to  
8 the Cooper Amendment, a revised amendment.

9 The Chairman. Has that been passed to the members?

10 Senator Dole. Yes. Do you have a copy, Dick? Here it is.

11 The Chairman. Thank you very much.

12 Senator Dole. If I may say, Mr. Chairman, I think we need  
13 a couple of changes in this amendment, but I think we may have  
14 at least some vehicle that we may agree on, because this amend-  
15 ment does contain portions of the Cooper and Muskie Amendments,  
16 with the additional factor that the Secretary is given discretion  
17 to make recommendations, but here the Congress has the last oppor-  
18 tunity to act.

19 It is much like the action Congress takes on reorganization  
20 plans. We provide a 60-day period. If either the House or the  
21 Senate rejects the recommendations of the Secretary, then it is  
22 not effective -- in other words, with reference to a one-year  
23 extension.

24 It seems to me that this might meet some of the basic  
25 objections. It does replace this feature with judicial review.

1 I think we might discuss it on that basis. I discussed it  
2 some with Senator Boggs and some with Senator Muskie, briefly  
3 with Senator Eagleton, a member of the Dole-Eagleton team on  
4 electoral reform, and others on the committee.

5 Senator Eagleton. Mr. Chairman, may I address a question?

6 The Chairman. Yes, Tom.

7 Senator Eagleton. My man is working on the language,  
8 Senator Dole. May I ask if it is clear, from your understanding  
9 as the author of the amendment, that it is a one-shot, good  
10 for one year only, that he can't come back after one year and  
11 get another year? Am I correct in that understanding?

12 Senator Dole. That is the way I would want it drawn, if  
13 it needs revision. But it is an amendment to the Cooper Amend-  
14 ment.

15 Senator Muskie. An amendment to it or a substitute for it.

16 Senator Boggs. It is a substitute for it, isn't it?

17 Senator Dole. It is actually a substitute, but it does  
18 incorporate many of the provisions of the Cooper Amendment. I  
19 think I should have included Section (C), which sets forth guide-  
20 lines and standards if the Secretary determines that such an  
21 extension is essential, and that they have made all possible good  
22 faith efforts, and they have established that they don't have  
23 the technology available. I think that should be included in  
24 my amendment.

25 I understand that ---

1           Senator Muskie. Yes, Leon is having that typed into a ver-  
2 sion so that those standards would be included

3           Senator Boggs. Mr. Chairman, on (C) (1), at the conclusion  
4 of such hearing at least six months before the effective date of  
5 such standard the Secretary may recommend, and so forth.

6           Don't they need a little -- ought that not to be at least  
7 a year? It would have to be pretty far advanced at that stage,  
8 wouldn't it, Bob? It seems to me that might better be a year,  
9 or at least nine months, and up here where we have 18 months,  
10 I don't know whether or not that ought to be two years.

11          Senator Dole. There is some question on the 18 and 12  
12 months, and I understand the 18 months is there, because there  
13 might be some who would file immediately. You need to delay  
14 that, and we are trying to revise that sentence to clarify it.

15          Senator Muskie. The revision would make it clear that what  
16 we are talking about, well, a more accurate phrasing would be  
17 "within 18 to 12 months before the effective date there would be  
18 a six-month period, beginning 18 months before the effective  
19 date and ending 12 months before the effective when this action  
20 could be initiated."

21          Senator Boggs. Right. That might do it, because they have  
22 got to get into production. They can't wait until six months  
23 before the new car comes out to get into production. That is my  
24 point.

25          Senator Gurney. A question, Mr. Chairman.

1 The Chairman. Yes, Ed.

2 Senator Gurney. Where we say "not less than 12 months before  
3 the effective date of standards," are you referring there to  
4 January 1, 1975, Bob?

5 Senator Dole. Right. But we are going to revise that  
6 sentence.

7 Senator Muskie. It might be more realistic to make that 24  
8 to 12 months, so that you have a whole, have the whole year 1974  
9 in which to initiate and complete this action or the whole year  
10 1973 to begin and complete the action.

11 That would give, then, you see, the normal time for putting  
12 a model into production.

13 Senator Gurney. I think you are right, because as I  
14 listened to the discussion yesterday, probably early in 1973  
15 they would have to begin to jell designs.

16 Senator Muskie. How about "24 to 18" instead of "24 to  
17 12," because if we made it 24 to 12, it would be the latter  
18 part of the 12 months and that would be too short a time. If  
19 you made it 24 to 18 months before the effective date, then you  
20 could complete the six months that bothered Senator Boggs.

21 Senator Boggs. Right. I don't see how they could do it in  
22 six months.

23 Senator Eagleton. Mr. Chairman?

24 The Chairman. Tom.

25 Senator Eagleton. I have one suggestion and one question.

1 My suggestion is that Senator Dole add on page 2 of his  
2 amendment in the second line where it says, "Standard may be  
3 suspended for one year," out in the word "only" after year.  
4 Would you accept verbally that amendment?

5 Senator Dole. Yes.

6 Senator Eagleton. And I make this inquiry: I talked to  
7 Senator Spong, who brought it to my attention, the last language  
8 in that same paragraph, "Either House passes a resolution stating  
9 in substance that that House does not favor such recommendation.

10 I take it that is language analogous to Executive Branch  
11 reorganization, either House can veto the thing, and so that is  
12 precedent for what you have done. I understand that, but I  
13 wonder in this instance where a bill passed by both Houses and  
14 signed by the President sets a date of 1975, and that is the  
15 law, and that might become the law, or would become the law, to  
16 unset that date, as it were. Do you give the White House the  
17 right to unset it?

18 Senator Jordan. 51 Senators.

19 Mr. Billings. Either House could maintain it by vetoing  
20 the suspension request.

21 Senator Eagleton. Correct. I am tossing it out.

22 Senator Muskie. What Leon is saying is that if you require  
23 action by both Houses, then you make it more difficult to hold  
24 to the January 1, 1975, deadline.

25 Keep the language as it is, and it becomes easier to change



1 that deadline. So it is six of one and half-dozen of the other.  
2 I think it is easier to sell by relying on the precedent than  
3 to modify it.

4 Senator Dole. I think the virtue, if there is any, is that  
5 it does place the responsibility with the Congress, at least one  
6 House of the Congress, and that seemed to be the area we talked  
7 about yesterday. It also permits the Executive Branch, which  
8 does have the expertise, to make recommendations, and they may  
9 make recommendations and I would guess Congress would be respon-  
10 sive if they have good reasons for a one-year extension for sus-  
11 pension.

12 I might say, and I don't think it is necessary to make a  
13 disclaimer, that I haven't talked to any of the industry people.  
14 I have a Ford automobile and it runs very well, so I haven't  
15 had any contact with any of the industry people. I don't know  
16 what their thinking might be, though I do know they are opposed  
17 to judicial review.

18 Senator Muskie. I like the amendment. I think it resolved  
19 most of the questions I had about the judicial review amendment.  
20 It gives us the expertise, it gives us a clear-cut -- without any  
21 possibility of delay, a clear-cut time frame within which to make  
22 a decision. It gives the industry ample time to respond to the  
23 decision, and so I think it is a good combination of executive-  
24 legislative.

25 Senator Dole. It does need some polishing.

1 Senator Easton. Mr. Chairman?

2 The Chairman. Yes, Now.

3 Senator Easton. My staff man has brought to my attention  
4 that 3(a) in the first paragraph, when it talks about the  
5 effective date, there is some flexibility as to that effective  
6 date because it has to be read in with page 25 of the print,  
7 subparagraph (5), any regulation promulgated under this section  
8 and revisions thereof shall become effective on the date or  
9 dates specified in such regulations.

10 I ask the question, then, wouldn't it be better perhaps to  
11 put in a specific date, like January 1, 1975, what is, within  
12 18 months, but no later than 12 months before January 1, 1975?

13 Senator Maske. Why don't we say "after January 1, 1973, and  
14 in any case no later than January 1, 1974"?

15 That gives the same thing, it would be the calendar year  
16 1973, in other words. That is the period we are talking about  
17 within which this provision can operate.

18 Senator Reed. What is that down here at the end?

19 Senator Maske. Then, you see, the action would have to  
20 be initiated before January 1, 1974, and presumably the manu-  
21 facturers would choose the early part of that period. I wouldn't  
22 think they would wait until the latter part of the period,  
23 because they couldn't very well protest delay. So they would  
24 presumably bring it in the early part of 1974, and that would  
25 give you all of that calendar year to expedite, and then you

1 would have, you see, with respect to (C) -- that is the ques-  
2 tion you are asking?

3 Senator Boggs. Right.

4 Senator Dole. Right.

5 Senator Muskie. Within six months of such hearing the  
6 Secretary shall issue a decision.

7 Senator Boggs. At least six months before the effective  
8 date of such standard.

9 Senator Muskie. What is vague about it is "within six  
10 months of such hearing."

11 Senator Boggs. You are reading something other than I am  
12 reading, Mr. Chairman.

13 Senator Muskie. I am sorry.

14 Oh, all right. Change that "6" to "12." I am sorry. I  
15 was looking at the wrong one.

16 Senator Boggs. Fine.

17 Senator Jordan. What your amendment would do, as I under-  
18 stand it, Bob, would be if the Secretary, who is the enforcing  
19 agent, makes a recommendation that there be given another year,  
20 that is effective unless the Congress ---

21 Senator Dole. That is the concept, yes.

22 Senator Jordan. Unless Congress, one branch or the other,  
23 kills it. If they didn't do anything about it, it would be  
24 effective.

25 Senator Dole. Yes.

1 Senator Jordan. It throws it back here for another hassle.

2 Senator Dole. We started the hassle. We were there for the  
3 takeoff and we ought to be there for the landing.

4 The Chairman. Bob, are you seeking to vitiate the judicial  
5 review entirely, and to substitute the administrative power,  
6 direction of the Secretary, plus the veto power of the Congress,  
7 is this correct?

8 Senator Dole. Yes.

9 The Chairman. I think, Senator Cooper, as author of the  
10 amendment, would you want to discuss this?

11 Senator Cooper. Yes, I will comment on it. Senator Dole  
12 has given us a clear-cut approach. I don't believe Senator  
13 Muskie had the same approach.

14 Senator Muskie. It is different than my approach.

15 Senator Cooper. One was adopted yesterday. The essential  
16 difference is whether the committee wants a judicial review. That  
17 is the essential difference between the amendments.

18 I think what you have got here is essentially a decision  
19 by the Secretary, so that is what we have as a choice.

20 The fact that 60 days -- only 60 days -- is given to veto,  
21 it means that there can't be any comprehensive hearing in either  
22 House of the Congress. Congress has very little to do with it.  
23 The Secretary makes a decision -- that is what it amounts to.  
24 If that is the approach we want, of course, that is the decision  
25 to be made.

1 Senator Dole. I might say I initially had 100 ---

2 Senator Cooper. I point out if the manufacturers don't agree,  
3 they have no recourse. If the conservation people decide it  
4 shouldn't be extended, they have no recourse. I don't think to  
5 give the Congress 60 days is important. You made it clear that  
6 it is a decision of the Secretary.

7 Senator Muskie. I don't agree with Senator Cooper that  
8 this essentially makes it the Secretary's decision. If it does,  
9 then the reorganization procedure which we had since the Hoover  
10 Commission is meaningless as a sharing of legislative power  
11 between the President and Congress. We used it for all these  
12 years, it has been reenacted over and over again.

13 The Congress has acted under the reorganization powers to  
14 veto reorganization plans, and it has had ample opportunity to  
15 conduct hearings on very complicated reorganization plans.

16 I think that the proposal, for instance, to shift water  
17 quality control to the Department of the Interior, that was a  
18 major shift, and we considered it and approved it in that instance,  
19 but we have also rejected it. We rejected a proposal to create  
20 a Department of Housing and Urban Development under the reorgani-  
21 zation.

22 So the second point, I think, is that 60 days is inadequate  
23 for comprehensive hearings by the Congress, and is certainly  
24 inadequate for comprehensive hearings by the Judiciary, which  
25 under Senator Cooper's amendment would have to act after the

1 Secretary has held hearings.

2 If the prior Secretarial hearings in the case of judicial  
3 review were adequate for the court to act within the limitations  
4 of the time frame set up by the Cover Amendment, then the pri-  
5 mary hearings by the Secretary is sufficient for Congress to act  
6 within the time frame set by the Hole Amendment.

7 I just don't accept the thesis that the Congress must have  
8 a broader-based record than the Judiciary upon which to form its  
9 judgment. So I don't think that this holds water, that particu-  
10 lar item.

11 The thing I like about this is that it places the responsi-  
12 bility clearly and precisely, first, on the Secretary, who has  
13 responsibility for all these programs, has the authority, has the  
14 manpower, the expertise and the funding that the Congress has  
15 provided over the years. That ought to be there.

16 That ought to be there. That ought to have an input into  
17 whatever review mechanism we provide, but, secondly, it then  
18 brings the political decision clearly back to the Congress, where,  
19 in my judgment, it belongs, since in this Act we are exercising  
20 that responsibility in the first instance.

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I wish we had focussed on the merits of Senator Dole's proposal yesterday. I did not, I confess. The more I think about it, the better I like it. It is clear cut and fully visible to the public, with ample opportunity, when you consider the secretarial hearings and congressional hearings, ample opportunity to expose the issue and examine it, to make the record, and we have a full calendar year within which to do it.

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It seems to me there is ample time. So the question really is not whether the court has more time or less time than the Congress to consider the merits. The question really is, who ought to make the final decision?

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On that point, I come back to the position I have taken over two days now, that the Congress ought to make that final decision, and with this back up that Senator Dole has provided, I think we have a good forum.

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The Chairman: It is the desire of your chairman to move matter along as expeditiously and yet as thoroughly as possible. I think someone who talked in favor of the Cooper amendment, like Mr. Spong, would want to give his thinking about this.

21  
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24

I am not attempting to direct members, but we are coming back to what certainly was a very clear cut vote yesterday. There was no misunderstanding about what we were doing, and I think that before we vote, perhaps some of those that ---

25

Senator Spong. Well, I think that it is a good thing that Senator Dole has offered the amendment, in order that all of these

2 1 alternatives might be thoroughly explored.

2 I reason the basic premise is that I feel a judicial  
3 review is the better approach. I am not persuaded to change my  
4 mind as far as that is concerned.

5 The Chairman. Of course, I don't want to interject this,  
6 except it has been stated by Senator Baker, in degree by  
7 Senator Muskie, that members are reserving the right during  
8 Senate debate, to offer amendment. Senator Baker spelled that  
9 out very clearly for himself, and I believe Senator Muskie  
10 with some reservations, but I think we either move or we  
11 don't move in these matters, keeping, of course, the flooraction  
12 as the opportunity for further debate.

13 Senator Cooper?

14 Senator Cooper. It is a clear cut choice, as I see it,  
15 to bring in the new judicial review, and I still disagree with  
16 Senator Muskie.

17 I think the decision should be made by the Secretary,  
18 and if there is no opportunity for appeal, and if he rules  
19 against the manufacturers, they have no due process, and then it  
20 would be taking property without due process of law.

21 If the Secretary rules for them, the conversationists  
22 willnot have an appeal. But it is clear cut decision.

23 Senator Gurney. Mr. Chairman?

24 The Chairman. Ed?

25 Senator Gurney. Of course, I support this because  
this is essentially what I talked about yesterday and the day



3 1 before, that then I think the decision ought to be in the hands  
2 of someone who knows the most about it, and he is the secretary.

3 I always have reservations about the court, as I said,  
4 because I think you inject the court into something that they  
5 really have no expertise and knowledge about at all, with all  
6 of the possibility of delay, and we can't afford delay in this  
7 thing.

8 We need rather speedy action and determination, and  
9 certainly that can be made by somebody who knows the issues.  
10 I would raise this one question, and this is something that has  
11 bothered me, I suspect mainly because I am not acquainted with  
12 the problem like those who have been on the subcommittee and  
13 have studied them more than I have.

14 You have the industry saying it is impossible to comply  
15 by 1975. I don't know whether it is or is not. Also, of course,  
16 we view a new, drastic approach, the ones affected are going  
17 to say they can't comply with it and that it is impossible.

18 I like this procedure. I would prefer to see another  
19 year instead of only the one year. I am not going to inject  
20 that here, but I would like to serve notice on the committee that  
21 on the floor I might offer an amendment to make over an amendment  
22 to make this one more year using these procedures, which I  
23 think are wise, and ought to work.

24 The Chairman. Now is there any further discussion?

25 Senator Eagleton. May I just ask, is the word "only"

4 1 in?

2       Senator Dole. Yes. Just briefly, so there will be no  
3 misunderstanding, I think yesterday the new judicial review was  
4 the best alternative available, and I voted for it, but I think  
5 we are doing with all alternatives is vesting the responsibility  
6 in the executive and the legislative branch where the respon-  
7 sibility should be.

8       Under judicial review we are shutting it off to some  
9 neutral third party who has no expertise and has not wrestled  
10 with the problem as have the executive and legislative branches  
11 of government.

12       I think basically the places, it places the responsibility  
13 where it belongs. We enact the legislation, and we should have  
14 the final responsibility.

15       Clearly, within the sixty days within which the secretary  
16 may make a recommendation 12 months before the effective date  
17 of the standard, the Congress has adequate time to reject,  
18 or to do nothing, and I would guess that the present very clear  
19 cut alternative and one that I think might be successful, if  
20 not today, at a later time.

21       Senator Spong. Let me be sure that I understand the  
22 Congressional role. I think Leon and Senator Muskie covered  
23 it in the answer to Senator Bagleton's question, but I am  
24 going to put it in another framework.

25       If the Secretary, based upon his hearing and his information

5 1 decides that the time should be extended for a year, then a  
2 majority of the Senate by a resolution can prevent that extension  
3 from going into effect.

4 Senator Dole. Right.

5 Senator Spong. Have I got that right?

6 Senator Dole. Yes.

7 Senator Spong. All right.

8 Senator Dole. That is all I have.

9 The Chairman. I am going to ask the general counsel of  
10 the committee, and I ask the attention of the members ---  
11 he is not pitting his legal experience against the members ---  
12 but I want him with objectivity to tell us exactly what the  
13 situation is with the Cooper amendment as it stands, and what  
14 the situation would be if the Dole Amendment is adopted.

15 That is all I want.

16 Mr. Meyer. I think the major differences between the two  
17 amendments is not whether we have judicial review or congressional  
18 review. Both of the ideas as they are presented to the committee  
19 involve an administrative review which is deemed final until  
20 it is overturned by somebody. In one case it would be the  
21 court and in the other case it would be the congress.

22 I think the advantage to the Dole proposal is that the  
23 final decision would be rendered much earlier than this would be  
24 if we use the court approach, because of the procedural remedies  
25 or time takers up that the courts can get themselves involved  
in.

6 1 The real decision rests with the secretary in either case,  
2 and the question is who makes the final determination that the  
3 secretary's decision was correct.

4 Senator Muskie. I don't buy that last argument with  
5 respect to either proposal. I suggest that the body which  
6 has the final review responsibility is going to neglect it,  
7 or not give them adequate attention, or not exercise it.

8 I think that is to do violence to the integrity of the court  
9 and of the congress, and we have given the secretary the first  
10 responsibility in both cases, and it is a very serious respon-  
11 sibility and it will be a very influential decision, but to  
12 suggest that that forecloses any action by the court, or that  
13 the court or the Congress is unlikely to change them I think is  
14 unrealistic in the extreme.

15 Senator Spong. At the risk of being facetious, I might  
16 say the most immediate effect of the Dole amendment is that  
17 the Washington Post would have to write a new story.

18 Senator Eagleton. And they are writing it, I dare say, now.  
19 w (Laughter)

20 The Chairman. Everett?

21 Senator Jordan. If under the Dole amendment this were  
22 referred back to the Congress as indicated in the amendment  
23 there, would that then be referred to the public works committee,  
24 for review and study and then be presented to the Congress,  
25 or would it just come to the Congress and everybody would be

7 1 involved in it?

2       The Chairman. I would think that it would come back through  
3 the committee of jurisdiction. That would be my feeling.

4       Senator Dole. We can clarify that very simply. It should  
5 come to this committee or the House Committee.

6       Senator Jordan. It seems that it should, because I don't  
7 know who would hold hearings and determine what should be  
8 recommended to the Senate, because the Senators who were not  
9 privileged to get all the information would not have any way  
10 to judge whether it is right or wrong.

11       I would not think they would, other than what they could  
12 pick up.

13       The Chairman. That is not provided for in the amendment  
14 as now tentatively written.

15       Senator Dole. No, but I think if we are for the amendment,  
16 or against it, that this committee should be the committee to  
17 hold hearings if there were any.

18       Senator Muskie. Yes. In the first place, we are the ones  
19 who gave the procedure, and we have jurisdiction over the  
20 substance.

21       Mr. Meyer. The recommendations would have to be recommended  
22 --- recommendations subject to this section of the air quality  
23 act, which is our jurisdiction and nobody else's.

24       Senator Gurney. One question, Mr. Chairman.

25       On page 2 in this subsection B, it says "recommended to

1 Congress the emission standards that should be applied during  
2 any such suspension,"and so on.

3 Here is the language I am questioning: "Such finding and  
4 representations shall not be judicially reviewable."

5 Well, I understand what that means. However, it raises  
6 this question to the general counsel. Does that throw any  
7 question of whether the whole thing is judicially reviewable, where  
8 you exclude only the findings and recommendations of the secretary  
9 to Congress?

10 What about his whole procedure and whole decision? To put  
11 it another way, do we need anything in this section that says  
12 this whole apparatus shall not be subject to court review?

13 Senator Muskie. Why wouldn't it be better in place of that  
14 sentence to say that such finding and recommendations shall be  
15 considered to the Congress. I don't think you have to get into  
16 the question of judicial review at all, even then you imply that  
17 the Congress might act if it chooses.

18 Senator Gurney. That might be better. Because sometimes  
19 when you exclude something and leave something open, you open up  
20 Pandora's box.

21 Senator Muskie. Would you accept that recommendation, Bob?

22 Senator Dole. Yes.

23 The Chairman. I don't want to presume members if they  
24 understand exactly what we are voting on, but I wonder if you  
25 want the amendment read as it has been agreed to, or if you are

ready to vote, then.

Senator Dole. I am ready to vote. I think we understand the concept, and we recognize the need for technical changes.

Senator Jordan. This would be a substitute for the Cooper amendment which was passed yesterday; is that correct?

The Chairman. That is correct, as I understood it, and he stated, and no one seems to draw that line.

We will have the call of the members.

Mr. Royce. Senator Baker.

Senator Cooper. No.

Mr. Royce. Senator Bayh, by proxy to the Chairman?

The Chairman. Pass.

Mr. Royce. Senator Boggs?

Senator Boggs. Aye.

Mr. Royce. Senator Cooper?

Senator Cooper. No.

Mr. Royce. Senator Dole?

Senator Dole. Aye.

Mr. Royce. Senator Eagleton?

Senator Eagleton. Aye.

Mr. Royce. Senator Gravel?

The Chairman. No.

Mr. Royce. Senator Gurney?

Senator Gurney. No.

Mr. Royce. Senator Jordan?

1 Senator Jordan. Aye.

2 Mr. Royce. Senator Monroney?

3 The Chairman. No.

4 Mr. Royce. Senator Muskie?

5 Senator Muskie. Aye.

6 Mr. Royce. Senator Packwood?

7 Senator Dole. Aye.

8 Mr. Royce. Senator Spong?

9 Senator Spong. No.

10 Mr. Royce. Senator Young?

11 Senator Jordan. No. I have his proxy.

12 Mr. Royce. Senator Randolph?

13 The Chairman. No.

14 Read them off.

15 Mr. Royce. Senator Randolph, nay; Senator Baker, nay;

16 Senator Bayh, pass; Senator Boggs, aye; Senator Cooper, nay;

17 Senator Dole, aye; Senator Eagleton, aye; Senator Gravel, nay;

18 Senator Jordan, aye; Senator Gurney, nay; Senator Spong, nay;

19 Senator Young, nay, proxy to Senator Jordan.

20 Senator Boggs. Would you read mine again? I couldn't  
21 hear you.

22 Mr. Royce. Senator Boggs, aye.

23 Senator Boggs. Right.



1 Mr. Royce. The amendment fails, Mr. Chairman, by a vote  
2 of 8 to 6.

3 The Chairman. As of this moment, the Washington Post  
4 story does not need to be rewritten. I said as of this moment.

5 (Laughter)

6 Senator Dole. Amended, but not rewritten.

7 What is your pleasure, gentlemen?

8 Senator Muskie. Title II is before us for consideration  
9 of the committee.

10 Senator Boggs. Mr. Chairman, may I raise one question at  
11 this point for clarification on page 47 of the bill? This is,  
12 rather, committee print number 2.

13 The second paragraph, like 6. It says, "beginning with  
14 model year 1975 or after January 1, 1975, any new light duty  
15 motor vehicle", and so forth. The model year 1975 would come out  
16 in September, 1974.

17 I thought maybe that point there should be cleared up.  
18 I am not sure myself just what that means.

19 Senator Dole. What page is that on?

20 Senator Boggs. Page 47, line 6.

21 It seems everything, the time element, would require  
22 a determination of just what we mean there.

23 Senator Muskie. That intends to take into consideration  
24 what we all know to be the fact, that 1975 model year cars are  
25 usually put on sale in the latter part of 1974.

1 We wanted to make it clear that cars manufactured for  
2 that model year, whether they are put on sale January 1st, 1975  
3 or earlier, ought to be subject to the same restrictions. I can't  
4 conceive that the manufacturers would have a different automobile  
5 for the two periods, but the language was intended for  
6 clarification on that.

7 Senator Boggs. I see. If we spell that out in the report  
8 so that we know what we are really talking about is September  
9 of 1974, that is what we are really talking about.

10 Senator Muskie. Well, if the manufacturers wanted to delay  
11 or found this necessary to delay putting their 1975 model cars  
12 on sale until January 1, they would have the option to do so.

13 I don't think we want to say that the effective date is  
14 September, 1974, when they may need the extra few months to  
15 finish the job. I still like this language.

16 Senator Boggs. Okay. We can make it clear, then, in the  
17 report, that what we really mean is 1974, but they can take  
18 up until Christmas and new Years if they want to.

19 Senator Muskie. What we really mean is January 1, 1975, but  
20 we did not want to foreclose their selling such cars earlier,  
21 providing they would meet the standards in effect on January 1,  
22 1975.

23 Senator Boggs. I see. If that language can go in the report,  
24 I will be satisfied.  
25

1 Senator Muskie. All right.

2 Mr. Chairman, title II is still before the committee.

3 The Chairman. Yes, it is. Are there other matters in

4 Title II?

5 What about the warranty subject?

6 Senator Cooper. Mr. Chairman?

7 The Chairman. Yes, Senator Cooper.

8 Senator Cooper. I remember that one of the earlier  
9 drafts, Senator Muskie, provides the penalties for these  
10 violations. There was language that said that it would be unlaw-  
11 ful to introduce into commerce or to sell to anyone who would have  
12 reason to know would be introduced into commerce, and I thought  
13 that placed a burden which was improper.

14 If one knowingly sold it to someone who introduces it  
15 into commerce, that would be a violation, but is there any  
16 language in this bill, or has that been stricken?

17 Senator Muskie. Where is the penalty provision?

18 Mr. Billings. Page 48, which prohibits introduction  
19 into commerce.

20 Senator Muskie. Where is the penalty?

21 Senator Cooper. I think that language was taken out.

22 Mr. Billings. We took it out of section 202.

23 The penalty is on page 52.

24 Senator Cooper. All right. That is a \$10,000 penalty.

25 Senator Muskie. The knowingly is out now.

1 Senator Cooper. I think it is out now.

2 The Chairman. Can we move to section 207?

3 I know Senator Baker was interested. I don't know what he  
4 has left with a member of the committee or his staff, what  
5 information he wants to bring us today, but I wonder if there is  
6 some concern.

7 That would be on page 58.

8 Senator Muskie. Page 58 is section 207.

9 The Chairman. What is the amount now?

10 Mr. Billings. Page 60, line 3.

11 The Chairman. Page 60, line 3?

12 Senator Cooper. I know what this objection was. Is Mr.  
13 Jordan here?

14 The Chairman. Someone should give him the opportunity.

15 Senator Cooper. I can state those objections.

16 The Chairman. Senator Cooper?

17 Senator Cooper. Senator Muskie, I know what Senator Baker's  
18 objections were. He was particularly interested in this section,  
19 and wanted to give to the committee his views.

20 His position is that the Warranty could only go to those  
21 lines on page 59 beginning with line 13 down through to the  
22 middle of line 20.

23 So this would be ----

24 Senator Jordan. Page 58?

25 Senator Cooper. 59, line 13, subsection C, down through

1 line 20. That is the word "title".

2 This is what the warranty should go to. Every new  
3 vehicle or vehicular engine, and so forth. He is against the  
4 warranty that it can be operated for the 100,000 miles, or ten  
5 years, which ever is less.

6 The principle is that the manufacturers shall be bound  
7 by designing, and building, but he should not be charged with the  
8 operation of the car over a period of what is it, ten years,  
9 or 100,000 miles.

10 Senator Muskie. May I point out that with a full under-  
11 standing of the provisions of the bill as written on page 60,  
12 line 6, the manufacturer shall furnish with each vehicle or  
13 engine written instructions for proper maintenance and use.

14 So in the case of the 50,000 mile warranty --- it was  
15 conditional upon the owners or operators performance of this,  
16 or adherence to the instructions on proper maintenance and use.  
17 In other words, this warranty would not put the manufacturer  
18 in the position of guaranteeing the kind of maintenance that the  
19 owner or operator could get.

20 The warranty could be conditioned on the ownership or operator  
21 doing what the manufacturer says is necessary, and if he fails  
22 to do so, then the warranty fails, just as in the case of ---  
23 what is that warranty of 50,000 miles?

24 You had to keep a record. I know I had one of those, and  
25 if you did not keep it, if you did not have the oil changed on  
schedule, if you did not have the lubrication done on schedule,

1 that fifty thousand mile warranty failed.

2 So it would be kind of the same thing here.

3 Senator Cooper. His position remains the same, that the  
4 manufacturer cannot warrant whatever operators would do with  
5 this car, even if you put in instructions, which I think is  
6 proper, putting in instructions on how it is to be used and operated  
7 and the manufacturer cannot guarantee what the owner will do  
8 with the car for ten years.

9 Senator Muskie. Let me give you the philosophy of this  
10 approach. One of the difficulties, or one of the technological  
11 challenges that is faced by the industry is not only the question  
12 of meeting standards at the moment the vehicle engine is  
13 tested, but also the durability of the system to maintain these  
14 standards over time.

15 For instance, the great obstacle to the development of  
16 catalytic mufflers is the fact that they, with lead in the gas,  
17 they don't stand up, and the difference is something like 10  
18 as against 50,000 miles.

19 So we think that it is not enough to warrant the design,  
20 building and equipment at the moment the car is sold. It may  
21 then conform, but 10,000 miles later it may break down because  
22 of the failure of the manufacturer in his design to give proper  
23 attention to the need to maintain the capability over some  
24 reasonable period of time, related to the life of the car.

25 So we may be doing a useless thing, providing a system

1 that would permit the manufacturer to meet the requirements,  
2 the performance requirements until he sells the car, but within  
3 six to 12 months after you have got the same old automobile.

4 That is what we want to guard against. We think the  
5 manufacturer has some responsibility of building into the  
6 car the capability for maintaining the standards for some  
7 reasonable life.

8 We think the owner and operator also have a responsibility  
9 to maintain the engine. That is why we provide that the warranty  
10 can be conditioned upon proper performance by the owner and  
11 operator.

12 I think this has to be considered, John. If you eliminate  
13 one and rely wholly upon the other, that might well render  
14 this whole business an exercise in futility.

15 Senator Jordan. May I ask a question at that point?

16 The Chairman. Yes, Everett.

17 Senator Jordan. Are we saying that the manufacturer of  
18 an automobile in this case has got to give a warranty that this  
19 automobile will run 100,000 miles without a new muffler or a new  
20 anything, or else --- well.

21 Senator Muskie. If properly maintained and used.

22 Senator Jordan. I have not got any yet that would run  
23 a hundred thousand miles, and I have got some pretty good  
24 ones, and have some now. Why can't an automobile manufacturer  
25 say, "I am guaranteeing this car for 5000 miles, and that is what

1 you are buying and paying for? If your muffler gives out,  
2 you buy yourself a new one."

3 Senator Muskie. Because this involves not only the owner.  
4 These requirements are not being written into the law for the  
5 convenience of the owner.

6 They are being written into the law because of the health  
7 of the public at large, and to relate them as you do other  
8 warranties wholly to the self-interest of the owner of the  
9 car is just not appropriate.

10 You can't do it. Look, with that kind of a warranty,  
11 Everett, they could have put mufflers on in 1965, and you would  
12 have a bunch of used cars now that would be no cleaner than  
13 those manufactured before 1965.

14 That is what the 5,000 mile warranty would amount to---  
15 nothing.

16 Senator Jordan. I don't think we know right now that the  
17 automobile manufacturer can make a muffler that will last  
18 100,000 miles or 10 years.

19 Senator Muskie. Everett, everything that we are asking  
20 here is subject to that question. I think if you buy the argument  
21 that we have never done this before and we should not do it now

22 ---

23 Senator Jordan. I am not arguing that at all.

24 Senator Muskie. That is what this sounds like.

25 Senator Jordan. I would not want to vote on a bill that



1 says the manufacturer has to give a warranty that his automobile  
2 would last 100,000 miles or 10 years. I think that is so  
3 completely unreasonable and unworkable, and I don't think if  
4 I were the automobile manufacturers ---- I would just quit,  
5 because I could not make one that is guaranteed for the 100,000  
6 miles.

7 The Chairman. I would like with the undersanding of the  
8 committee members ---- I think this is a technical question,  
9 at least in degree, and we have a staff member, Dick Grundy.  
10 Dick, I would want you to make a comment that you feel might be  
11 helpful to the members in connection with the warranty that  
12 a car manufacturer could give upon that car which was sold and  
13 placed in operation.

14 Cover other matters that you think might be helpful to the  
15 committee.

16 Mr. Grundy. When the warranty question was discussed with  
17 Mr. Cole, of General Motors, it was approached in terms of  
18 whether or not they could meet that, and he anticipated being  
19 able to meet a 50,000 miles warranty versus a hundred thousand  
20 mile warranty.

21 His position was that the industry was moving toward  
22 a 50,000 mile warranty on a system, a system as a whole, which  
23 would again be a sealed system, so that you could not tamper  
24 with it.

25 There was a potential of contaminating the system if a

1    leded gasoline were introduced into it.

2           When we discussed the possibility of 100,000 miles, he  
3    did not preclude this possibility, but said that it was  
4    something they had not directed their research effort to.

5           Provided there was an opportunity to rework the system as  
6    you do with the many other parts of the car, where you could go  
7    in at a certain period, and replace the catalyst or other parts  
8    that 100,000 miles might be possible.

9           But the concern voiced by Mr. Cole, and which has been  
10   voiced by other people, is in keeping the system from being con-  
11   taminated with a leaded gasoline, and that provided mechanism  
12   could be developed to avoid this, the longer warranty would be  
13   possible.

14           It has actually been suggested that they develop a separate  
15   nozzle, a separate intake system for the fuel tank, so that  
16   you can't connect a leaded gasoline hose and fill the tank.

17           This is something the industry is working on. But they  
18   have to date not addressed this long term, or the 100,000 mile  
19   warranty question, and it is definitely going to require some  
20   major research efforts to accomplish it.

21           That is not to say that it cannot be accomplished.

22           Senator Jordan. Are we talking about just the muffler now,  
23   or whatever controls the emissions?

24           Mr. Grundy. We are talking about designing a system that  
25   would include, on the General Motors car, this would include

1 an electronically controlled fuel injector system, to replace  
2 the distributor carburetor system, as well as the catalytic  
3 muffler system.

4 So we are designing the engine as a control system as  
5 an integral unit. This is something they are moving toward.

6 Mr. Gurney. Mr. Chairman?

7 The Chairman. Ed?

8 Mr. Gurney. As I understand your explanation, under the  
9 present state of the art, it would require a major research  
10 effort to do this. Is that correct?

11 Mr. Grundy. They have geared it to 50,000 miles, and now  
12 they would be asked to re-orient themselves to the 100,000 mile  
13 warranty.

14 Mr. Gurney. One other question, they only have a year  
15 and a half to do this, do they not, and put it on a model  
16 that is coming out in the latter part of 1974?

17 The Chairman. I understand that will be correct.

18 Mr. Royce. According to the time schedule of Mr. Iacoco,  
19 yes.

20 Mr. Gurney. Is it possible to do a major research effort  
21 of this sort within a year and a half?

22 Senator Muskie. What is this year and a half business?  
23 We were talking about yesterday about March of 1973 as the date  
24 when the hardware has to be frozen for the 1975 model year.

25 Mr. Gurney. You have next year 1971, 1972 --- maybe it is

1 two years.

2 Mr. Grundy. One alternative that is available that has  
3 an added cost would be at the 50,000 mile mark require that major  
4 parts of the whole system be replaced, which would give you an  
5 additional 50,000 miles.

6 Needless to say, that would most likely be the most, the  
7 most expensive solution, as opposed to developing a system  
8 initially that would last 100,000 miles. I feel if they can meet  
9 the 1975 standard, there will be options available, from what  
10 they say, to extend it to 100,000 miles.

11 The question is cost, not technology. Once the technology  
12 is available, they would be able to do this provided there is  
13 a recognition of the cost of the possible replacement of the  
14 system at 50,000 miles.

15 Maybe they might have to replace it every 25,000 miles,  
16 but they don't know this yet.

17 Again the cost is a factor.

18 Senator Gurney. If what you say is true, and you have  
19 a 100,000 mile warranty in there, your possible solution to this  
20 replacement really does not fit the requirements of the bill,  
21 does it?

22 Mr. Grundy. I would consider this analagous to what you  
23 have to do with a car now. At a certain period you have to go  
24 in and replace the oil cleaner and air cleaner system and plugs  
25 and points to keep the system operational.

1           The difference is, instead of talking to 10 or 15 dollars,  
2 we might be talking about a major expense.

3           Senator Gurney. That is at the car owner's expense, isn't it  
4 and the bill here requires the car manufacturer to guarantee  
5 this thing for 100,000 miles.

6           Mr. Billings. Mr. Chairman?

7           The Chairman. Yes, Mr. Billings.

8           Mr. Billings. One point that is important in the consideration  
9 of this entire Section 207 is that to a major degree the require-  
10 ments of this section will not become operative until there is  
11 developed a method of individually testing vehicles on the  
12 road.

13           At the present time, there is a test procedure, so called  
14 7 mode driving cycle test procedure. There is a revision of  
15 that in process. This takes around 13 hours to run, and it is  
16 the pre-certification test.

17           Now there is no car relative "quickly" test which you can,  
18 within a few minutes, get a reading of the tail pipe which tells  
19 you whether or not that car is in compliance with the standard  
20 for which the vehicle was initially certified.

21           This section, then, insofar as individual testing goes,  
22 would have to wait for the development of that correlated  
23 test, so that in part will delay the effective application of  
24 any warranty program.

25           Once there is such an inspection and test available,

1 then, of course, your vehicles individually would have to  
2 comply. The only other way that the warranty would become operative  
3 is later on in the section where the secretary has the authority  
4 to individually sample costs, maybe what is described in the act  
5 as a representative sample of a class or classes of vehicles,  
6 and if he finds a substantial failure to comply with the  
7 standard, require the manufacturer to recall that class of  
8 vehicles, or model of vehicles, to rectify whatever is causing  
9 the deterioration.

10 Mr. Grundy. May I ask something in here? There is a requirement  
11 on page 60 at the top that this vehicle would have to be properly  
12 maintained, serviced and operated by the owner.

13 Now, this gets back to the question that I raised a minute  
14 ago. If the system requires that certain segments be replaced,  
15 at 25,000 miles or 50,000 miles, this would be termed proper  
16 maintenance and service.

17 So the manufacturer is being required to develop a system  
18 that would operate for 100,000 miles could not necessarily,  
19 the unit itself, but rather with the capability of returning  
20 it and replacing parts, like you do on the ignition now.

21 Senator Gurney. Of course, it seems to me that is almost  
22 a complete escape valve as far as the manufacturer is concerned.

23 Senator Muskie. What was that, now?

24 Senator Gurney. He was talking about the requirement of  
25 proper maintenance on page 61, and what I was saying is that

1 that almost leaves a complete escape valve, doesn't it, as far  
2 as the manufacturer is concerned?

3 Mr. Grundy. Let's talk to the catalytic muffler  
4 system itself. Technically, I would think the most economical  
5 solution to that problem will probably be some sort of a  
6 cartridge type catalytic muffler, where you do in fact have  
7 to replace the cartridge at certain times even, timed intervals  
8 in order to maintain its efficiency.

9 While this might be interpreted as a partial escape  
10 mechanism. To the industry in developing the system, it also  
11 gives them maximum flexibility, so that they can consider a  
12 cartridge device.

13 Senator Cooper. May I ask a legal point here?

14 The Chairman. Yes.

15 Senator Cooper. Turn to page 60, line 8 and line 9.  
16 Such warranty shall apply to the ultimate purchasers of".

17 Do you mean the warranty runs in favor of the ultimate  
18 purchaser and subsequent purchaser? Is that the point?

19 Mr. Royce. It means it runs to the life of the automobile.

20 Senator Cooper. But I just want to know this language.  
21 It runs in favor of any purchaser. I think what you mean is  
22 that it runs in favor of, runs in favor of any purchaser,  
23 any purchaser of the car.

24 Mr. Billings. Yes. The warranty stays with the vehicle  
25 for the 100,000 miles.

1           Senator Cooper. Is the warranty enforceable only against  
2 the manufacturer, or against the distributor?

3           Mr. Billings. It is a manufacturer's warranty. With the  
4 franchise relationship, I don't know that it makes too much  
5 difference.

6           Senator Cooper. What?

7           Mr. Billings. With the franchise relationship, it does not  
8 make too much difference, I think.

9           Senator Cooper. In your judgment, does it run against  
10 the distributor as well as the manufacturer?

11          Mr. Billings. There is a definition on page 77.

12          Senator Jordan. Mr. Chairman?

13          The Chairman. Yes, Everett.

14          Just a moment.

15          Senator Cooper is trying to get an answer. And Senator  
16 Cooper apparently does not have the answer.

17          Senator Cooper. Maybe I have, and maybe I don't know  
18 it.

19          The Chairman. Are you ready to pass it?

20          Senator Cooper. No. I am asking if it is intended by this  
21 bill and the language chosen, that the warranty would be  
22 enforceable against the distributor.

23          Senator Muskie. I think you say you think the bill does  
24 not, John, or are you asking a question?

25          Senator Cooper. I just asked.



1 Senator Muskie. I don't think it does.

2 The warranty relates to the manufacturer, and the definition  
3 of manufacturer ----

4 Mr. Billings. One other point, Senator Cooper. On page  
5 63, in the provision for notification and for taking care  
6 of non-conformity and a commitment of the manufacturer  
7 to cause such non-conformity at no cost to the owner, specifically  
8 is excluding the burden on the dealer.

9 Senator Cooper. I will have to make a motion to get this  
10 thing under consideration, and I will do them following Senator  
11 Baker's philosophy on things.

12 As I look at this section, first, before the certification  
13 can be issued to a manufacturer, it must be found that whatever  
14 it is, the car, the engine, whatever it is, meets all the require-  
15 ments, and so constructed that it will meet those requirements  
16 for the lifetime emissions of such vehicle or engine.

17 That has got to be found by the secretary, and that is  
18 a pretty strong position. I think it is a proper one.

19 Further, the secretary can at any time conduct his own  
20 tests of the vehicle, or, if the purchaser agrees, he can test  
21 any other vehicle owned by individuals.

22 If he finds that on those tests that they are not in  
23 conformity, then he can have a hearing on the subject. If he  
24 finds they are not in conformity, even after sold, that is  
25 like they are taking back cars now, then he requires the

1 manufacturer to notify whoever owns the car, and then the  
2 manufacturer is bound to place that car at his cost, bring  
3 it into conformity to the regulations.

4 So there is a contingent obligation on the manufacturer  
5 for the lifetime of the car.

6 Senator Jordan. Of the muffler?

7 Senator Cooper. I don't know anything about the parts.

8 Senator Jordan. Well, of the emission system.

9 Senator Cooper. As I see it, and if I am wrong I wish the  
10 staff would tell me, if the warranty sticks with the manufacturer  
11 of the car during the life time of the car as far as the con-  
12 struction is concerned. That is what the manufacturer has got;  
13 that is a long time warranty, and at any time they find that it  
14 is not in conformity, the manufacturer is under an obligation  
15 under this bill at his cost to bring it into conformity.

16 That is tough, but I am not raising question about that.  
17 But if you go further in this bill, and this is where I agree  
18 with Senator Baker, there is a warranty not only for construction,  
19 but for performance, because no matter how this car is operated  
20 during a period of 10 years, or 100,000 miles, the manufacturer  
21 warrants that performance by 100 million people in this country,  
22 if that is the number of drivers.

23 Further in here is the prohibition against any purchaser  
24 then any time knowingly altering the system. He can be fined  
25 for that, up to 10,000 dollars.

1           So I am going to make a motion to bring the matter before  
2 us to strike the language, first on page 20 --- page 59 on line  
3 20, and add the word "title" and a period, and beginning on line  
4 24 on the same page, beginning with the word and, and on page  
5 60 ----

6           Senator Gurney. You mean strike lines 24 and 25?

7           Senator Cooper. Yes, strike lines 24 and 25, and on page  
8 60, strike 1, 2, 3, 4, 5. I don't think they should be charged  
9 with the performance of the operation of the car.

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1 The Chairman. We have heard the motion. Is there a sub-  
2 stitute motion?

3 Senator Muskie. Yes, Mr. Chairman.

4 I have already given my argument supporting the needs we  
5 have for the performance warranty if the design warranty is to  
6 be meaningful at all.

7 Without a performance warranty, you take out of the design  
8 warranty any consideration of longevity in the system. A 5,000-  
9 mile performance would be sufficient to meet a design warranty.  
10 Even 1,000 miles would be sufficient to meet a design warranty,  
11 and I don't think we ought to leave ourselves in this position.

12 So my substitute is this: I would substitute for the  
13 Cooper Amendment an amendment that would leave in the language  
14 which he proposes to strike, but substituting for the words  
15 "100,000 miles or ten years" the words "50,000 miles" with no  
16 years.

17 I would insert between lines 5 and 6 on page 60 the follow-  
18 ing language, and this is quite long and you may want me to  
19 repeat it, but if you listen closely, I don't think you can write  
20 it all, and I will try to get it reproduced. This is between  
21 lines 5 and 6, a new sentence -- or two sentences. This will  
22 be long, so don't try to write them down.

23 "Manufacturers may require reasonable evidence from the  
24 ultimate purchaser and subsequent purchaser of such vehicles or  
25 engines of the time when such vehicles or engines were first

1 placed in regular service and may require reasonable evidence,  
 2 that the prescribed maintenance, adjustment, service and operating  
 3 ing requirements have been observed before the manufacturer has  
 4 any obligation to correct deficient performance, and then there  
 5 would come the sentence which is already in the bill: "The  
 6 manufacturer shall furnish with each vehicle or engine written  
 7 instructions for proper maintenance and use," and I would like  
 8 substitute "proper maintenance, adjustment, service and maintenance  
 9 by the owner or operator."

10 That new language would spell out more clearly the duty of  
 11 the owner and operator if the warranty of the manufacturer is  
 12 going to be enforced.

13 Senator Gurney. You are saying that along with every car  
 14 there should be an instruction sheet, say, at 30,000 miles, that  
 15 the purchaser bring the car into the dealer and have some kind  
 16 of an inspection, something like that?

17 Senator Muskie. Yes.

18 The Chairman. I hope we are ready to vote on the substitute.

19 Senator Jordan. I would like to make one observation: and  
 20 that insertion there, I think you are going to set up every  
 21 little repair shop in the United States and garage with a book-  
 22 ing system that he just does not have, because people go to local  
 23 garages to get the work done, and small ones at that, and a  
 24 great many places run a garage and a filling station representa-  
 25 tive. The man has to keep books on it, that the man has have

1 16,000, 25 or whatever it is.

2 I think you are getting up probably an incredible ---

3 Senator Hinkle, Everett, there is a document Apr 12, 1961  
4 50,000-mile warranties that the manufacturers themselves intro-  
5 duced about four or five years ago. They set up this sort  
6 thing I am talking about with respect to maintenance of the  
7 engine and the transmission, drive and the whole business. I  
8 had one with the instruction book. With it was the record-  
9 keeping book that had to be signed by the service station mechanic  
10 at the time each step was taken, the mileage had to be entered.

11 This is what we are talking about. This is not without  
12 precedent. This is something the industry itself developed then,  
13 so we are relying upon them. Sure it is complicated.

14 The alternative is to do what you obviously don't want to  
15 do, and just require a foolproof system. If you don't want a  
16 foolproof system, you have to have something, and that is what  
17 to have to be a record-keeping system.

18 Senator Boggs: I think this is a great improvement, Mr.  
19 Chairman.

20 Senator Jordan: I think it is an improvement, too.

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1 The Chairman. Gentleman, let's vote on the substitute, do  
 2 we? I think we understand the situation. Is there is no objec-  
 3 tion, now. I do not want to overlook that.

4 Will you call the roll please?

5 Mr. Royce. On the Muskie substitute for the Cooper Amend-  
 6 ment.

7 Senator Baker, by proxy to Senator Cooper?

8 Senator Cooper. No.

9 Mr. Royce. Senator Bayh?

10 The Chairman. Pass.

11 Mr. Royce. Senator Boggs?

12 Senator Boggs. Aye.

13 Mr. Royce. Senator Cooper?

14 Senator Cooper. No.

15 Mr. Royce. Senator Dole?

16 Senator Gurney. I have his proxy, but his A.A. is checking  
 17 this out, so let me vote later perhaps.

18 The Chairman. Yes.

19 Mr. Royce. Senator Magleton?

20 Senator Muskie. Aye, by proxy.

21 Mr. Royce. Senator Cravel, by proxy to the Chairman.

22 The Chairman. Aye.

23 Mr. Royce. Senator Gurney?

24 Senator Gurney. No.

25 Mr. Royce. Senator Jordan?

1 Senator Jordan. Aye.

2 Mr. Royce. Senator Montoya, by proxy to the Chairman?

3 The Chairman. Aye.

4 Mr. Royce. Senator Justice?

5 Senator Justice. Aye.

6 Mr. Royce. Senator Packwood?

7 Senator Packwood. Aye.

8 Mr. Royce. Senator Spang?

9 Senator Spang. Aye.

10 Mr. Royce. Senator Young?

11 Senator Young. Aye.

12 Mr. Royce. Senator Randolph?

13 The Chairman. Aye.

14 We will delay a moment before announcing the result. You  
15 are going to clear the matter up?

16 Senator Gurney. Yes. His N.A. is now checking.

17 Senator Justice. Let me say this on this business of IITs.  
18 You know, I understand that the manufacturers are going to raise  
19 every doubt that they can about this. That is their business.  
20 Their business is to try to be as sure as they possibly can of  
21 the performance of the technology that they ultimately create.

22 Let me say to you just from the beginning, when we began  
23 hearings back in 1981, the manufacturers understood that if that  
24 their point of view they were going to create some technology  
25 that they would ask the public to pay for, that they had to be



1 thinking in terms of at least 50,000 miles of workmanship.

2 So what we are talking about is not something outside the  
3 range of their own thinking. It is something within the range  
4 of their thinking within the past seven years, and so if we  
5 ask them to meet the deadline for '75, they themselves are going  
6 to want something that will stand up to 50,000 miles.

7 So here there is a coincidence of objective, but as to the  
8 time when they may be required to do it, but as to the quality  
9 of the performance they ought to try to meet.

10 Senator Gurney. Ed, I don't object to the 50,000 miles in  
11 the amendment. I agree with it. It is just that I don't think  
12 the other part is workable. We have the warranties now, and  
13 nobody ever goes back to the dealer and has his inspections at  
14 the proper time. I don't think you get 1 percent of the people  
15 who do. I think that part of it is impractical.

16 The Chairman. Ed, that is a matter of choice.

17 Senator Muskie. The choice between that is no warranty at  
18 all ---

19 The Chairman. And the penalty.

20 How much longer shall we delay?

21 Senator Gurney. "No" for Senator Dole.

22 The Chairman. "No" for Senator Dole.

23 Mr. Royce. Mr. Chairman, the Muskie Amendment carried by  
24 a vote of 10 to 4.

1 The Chairman. Now, can we move on?

2 Senator Muskie. Are there any other questions about Title  
3 II that ought to be raised -- I will ask the staff -- that we  
4 know about?

5 The Chairman. Will you bring our attention to areas  
6 we are now?

7 Mr. Royce. There is a problem of minor nature that needs  
8 clarification, Mr. Chairman, in Section 202 on page 40.

9 Senator Jordan. 47?

10 Mr. Royce. Yes, sir. It is regarding the promulgation of  
11 emission standards for pollution agents for which no standards  
12 now exist. That is primarily nitrous oxide.

13 Senator Jordan. Wasn't that the section Baker brought --

14 Senator Muskie. Let me raise the question -- first, what  
15 did you want to ask me something?

16 Senator Jordan. There are different emission standards  
17 now for automobiles in effect today, as you well know. I pre-  
18 sume you know that.

19 Senator Muskie. What do you mean? I don't know what you  
20 are saying. There are not different standards set by the Secre-  
21 tary.

22 Senator Jordan. I am talking about automobiles going into  
23 Los Angeles. If he were to have to raise that 90 percent, that  
24 might be an impractical situation.

25 I know we can do something on it. I don't know what it is.

1 but I ran on both in three months and have it checked to see if  
2 it is performing properly. I don't know what to do. Do I have  
3 it kept?

4 Senator Washie, California is the one state which has been  
5 given in the previous legislation authority to set restrictive  
6 standards for California because of their problems. Is that the  
7 you are talking about?

8 Senator Jordan, yes, but are they going to have to go to 20  
9 percent above the standard? There are no standards set for any  
10 automobile now other than the California one.

11 Senator Washie, etc, there are standards set under the 1973  
12 Act for all automobiles. There are production line tests, so  
13 standard cars fail to meet it to a great degree, but there are  
14 standards.

15 Senator Jordan, but they are very low compared to your Los  
16 Angeles standard is it?

17 Senator Washie, I don't know. What is the comparison between  
18 the present California standards and the Federal standards?

19 Mr. Grundy, I believe the present California standards which  
20 are to be applied in 1973 and 1975 are the equivalent of the  
21 Federal standards for 1974. California is about one to two years  
22 ahead of the national standards and has been for some time, but  
23 there are Federal standards already established for 1974 and  
24 additional Federal standards proposed for 1975 by the Secretary  
25 of HEW.

1 Senator Muskie. California doesn't meet the proposed 1975  
2 Federal standards?

3 Mr. Grundy. The ones in this bill they do not.

4 Senator Muskie. What about the proposed 1975 that you have  
5 just referred to?

6 Mr. Grundy. I believe California has proposed the Federal  
7 standards for 1975 for 1975.

8 Senator Gurney. Say that again.

9 Mr. Grundy. California has proposed a standard for 1975  
10 I believe -- I believe it is 1975 -- which is equivalent to the  
11 standard proposed by HEW as the Federal standard in 1975.

12 Senator Gurney. Not the one in this bill?

13 Mr. Grundy. No.

14 Senator Muskie. This would be a more strict standard than  
15 the California standard.

16 The staff raised the question, and may I direct the attention  
17 of the committee to page 47, line 6 to line 22.

18 What we want to deal with here is this. That section, and  
19 we have got a proposed rewrite here, that section sets the deadline  
20 line of January 1, 1975 for motor vehicle pollutants which are  
21 now subject to criteria documents in one provision, and then for  
22 pollutants which are not yet subject to criteria documents in  
23 another provision.

24 Now, with respect to each, at the present time, January 1,  
25 1975 is the deadline. Do you think that that deadline ought to

1 be retained, because with respect to the second category of  
 2 pollutants, criteria documents will be issued in time for  
 3 standards to be set by when?

4 May I have the staff's attention so that I can present this

5 We propose to retain January 1, 1975 both for pollutants  
 6 which are now subject to criteria documents and those which are  
 7 not yet subject to criteria documents; then the question I just  
 8 asked was when the criteria documents for the second class will  
 9 be issued.

10 Mr. Billings. Nitrogen oxides will be issued in January of  
 11 next year.

12 Senator Gurney I wish you would speak up. It is awful  
 13 hard to hear.

14 Mr. Billings. The oxides of nitrogen criteria will be  
 15 issued in January of next year.

16 Senator Jordan. Is that the big ammonia thing?

17 Senator Muskie. That is the second big one. It is the  
 18 one, however, that has been uncontrolled relatively up to now.

19 Mr. Billings. The first emission standards of oxides of  
 20 nitrogen for motor vehicles will go into effect in 1971. There  
 21 are no present emission standards nationally for that, and there  
 22 have been no criteria issued.

23 Senator Muskie. Now, the question that I would like you to  
 24 focus on, having said that, is this: that the measurement tech-  
 25 niques for measuring motor performance in measuring both of these

1 standards must be established by the Secretary. At the present  
2 time there is no time limit within the proposed new language for  
3 setting these measurement techniques.

4 In the new language that is proposed by the staff, this  
5 appears, that the measurement techniques established on a State  
6 basis, and on the staff level here we have been discussing  
7 whether or not we ought to have a definite time frame.

8 What does the staff recommend?

9 Mr. Royce. Mr. Chairman, I would recommend 180 days, because  
10 we have to see that the agency buckles into this process. They  
11 already have manpower shortages, and yet the auto industry has  
12 to have at the earliest feasible time some knowledge of the  
13 target they should have, and standards, what is meant by standards  
14 hangs on the measurement techniques that are used, as we have  
15 seen within the last six months, not having revised auto emis-  
16 sion standards based on a revised measurement technique.

17 Senator Gurney. That will be 180 days after the enactment.

18 Mr. Royce. After the enactment of this Act, yes.

19 Senator Muskie. That is six months. Is that a reasonable  
20 period?

21 The staff seems to be agreed that that is a reasonable period.

22 Does the committee raise any question about it?

23 Senator Cooper. No.

24 Senator Muskie. When I propose, Mr. Chairman, like the  
25 six-month requirement for setting the measurement techniques

1 be incorporated in the language of the bill. Are there any objections?

2 Ready for the question?

3 Senator Cooper. Now I ask just this question?

4 The Chairman. Yes, Senator Cooper.

5 Senator Cooper. As I understand it, the criteria have  
6 been developed initially for certain types of emissions, and now  
7 is proposed in 1975 to reduce that to 97 percent. In other  
8 words, only 10 percent of the present would be uncontrolled.

9 Mr. Royce. That is correct, Senator.

10 Senator Cooper. Now, for those emissions for which no  
11 criteria have been developed, has it not been developed because  
12 there is a lack of technology at the time?

13 Mr. Royce. That is correct, sir.

14 With regard to auto emissions, criteria and standards  
15 have been established for hydrocarbons and carbon monoxide. The  
16 criteria for one other will be published in January of next year  
17 and particulates also.

18 Senator Cooper. They by 1975 they would be controlled  
19 except for the 10 percent, is that right?

20 Mr. Royce. Under the language of this Act, yes, sir.

21 Senator Cooper. Then I ask what the language means in  
22 paragraph 2, Section 2, "within 90 days." Has that been changed  
23 to 180 days?

24 Mr. Royce. Yes, sir.

25 Senator Cooper. "Unless he finds within such a period time

1 such proposed standard is necessary to achieve and maintain  
2 national ambient air quality standards:

3       It was intended to tighten -- to require more than 50  
4 cent?

5       Senator Muskie: It could.

6       Mr. Billings: It could go either way. We don't know what  
7 the number is going to be. We have preliminary specifications from  
8 the Administration. There are no published criteria. Therefore,  
9 we don't know what the number will be to protect the public health  
10 from oxides of nitrogen. It is anticipated that there will be  
11 a need to reduce oxides nitrogen emissions 50 percent to protect  
12 public health, but if the final criterion is a variation of  
13 that, they may find that 45 percent is sufficient, or some varia-  
14 tions within a range.

15       Senator Cooper: These are applicable to emissions, but since  
16 there are no criteria now?

17       Mr. Billings: Yes.

18       Senator Cooper: I understood you to say that this would  
19 permit some lowering or some variation.

20       Senator Muskie: Yes, raising or lowering.

21       Senator Cooper: I don't think the language is very clear  
22 on that. We should put it in the report that some variation will  
23 be allowed, if that is what is intended.

24       Mr. Coats: Necessary or sufficient?

25       Senator Cooper: As I understand it, this would only mean



1 you could tighten it up. That may be what you want to do, but I  
2 it does mean both ways, you ought to spell the variation out.

3 The Chairman. Senator Cooper. If we work that out in the  
4 report language --

5 Senator Muskie. Yes, let's make it clear that the final  
6 number may differ from this one, up or down.

7 Senator Cooper. I just wanted to get that straight.

8 Senator Muskie. Now, the 180 days I was referring to is  
9 counting, lines 8 and 9.

10 Mr. Billings. Actually, Senator, we would have to move the  
11 measurement techniques up here to modify both (A) and (B).

12 Senator Muskie. In any case, 180 days relates to the  
13 measurement techniques and not to the setting of the standards,  
14 and I gather there is no objection to that.

15 Mr. Chairman, I propose this new language for lines 6  
16 through 22 on page 46. It is a substitute.

17 The Chair. Is it necessary to have a roll call, gentlemen,  
18 on this matter? I have a feeling that we are in general agree-  
19 ment on the need to have this included.

20 What is your feeling, Senator Cooper?

21 Senator Cooper. I have no objection to that.

22 Senator Jordan. I have no objection.

23 The Chairman. Without objection, so ordered.

24 Senator Young. Mr. Chairman?

25 The Chairman. Yes.

1 Senator Spong. I wanted to discuss a possible amendment to  
2 the registration and regulation of fuels and their additives.

3 Senator Boggs. What page is that?

4 Senator Spong. Pages 70 and 71. I was under the impres-  
5 sion ---

6 The Chairman. Yes, Bill?

7 Senator Spong. We had during the hearing a suggestion that  
8 prohibition of some fuel might possibly result in increased use  
9 the use of other components that would endanger the health or  
10 the welfare.

11 Frankly, I don't know the answer to this. I just heard the  
12 testimony. I believe I tried to question Russell Train about  
13 this when he was before us, Ed, or talked to him in terms of  
14 this.

15 Now, what I am concerned about, I am in agreement with  
16 this section that the Secretary have the right to prohibit the  
17 use of anything he determines is injurious to the health or the  
18 welfare.

19 Senator Jordan. It can be cleaned up.

20 Senator Spong. That is right, of course.

21 Now, what I am concerned about is that he not prohibit the  
22 use of something and we hear on the radio what a great thing  
23 that is and that it is not being used any more, when the crux  
24 of the matter is that other components might be used that are  
25 equally injurious.

1 So what I propose is that when the Secretary makes a finding  
2 and publishes the finding, as is called for under this section,  
3 that he also state that the prohibition or that he is addressing  
4 the use of will not cause the use of some other fuel which will  
5 permit emissions which will endanger the public health or welfare  
6 to the same or greater degree.

7 The Chairman. I understand what you seek here, and even at  
8 the point of going ahead, I don't think it is absurd. We are  
9 constantly presented with a statement by a nutritionist that  
10 certain cereals are bad.

11 Within hours or days another nutritionist says the opposite.

12 I think in matters of this kind there is a constant flux,  
13 a change, a transition, the injection of new, perhaps unorthodox  
14 thinking, and I think that is perhaps what you are trying to  
15 do here.

16 Senator Spang. Yes, and this leaves it up to the Secretary  
17 I have some language here which I will show you. All the Secretary  
18 has to do when he publishes a finding with respect to the  
19 prohibition, he was also got to say that this is not going to  
20 result in the use of something that is equally harmful.

21 Senator Muskie. I think that language makes sense.

22 The Chairman. You are not taking off something.

23 Senator Spang. I think it should be cut off. Let's call  
24 straight here. If lead is quite to be harmful to the health of  
25 gasoline, let's cut it off. And let's not cut it off and say, it

1 is unhealthy and is going to endanger the public welfare and at  
2 the same time we know other things are going to be added, acci-  
3 dentals, and again I don't know the facts, there are creating a  
4 greater photochemical smog.

5 So I want the Secretary to make a complete fix.

6 The Chairman. It is not a matter of precluding, as I under-  
7 stand what you are trying to do.

8 Is there a comment on the amendment that has been offered  
9 Tom?

10 Senator Bagleton. Should it be "fuel or additive" each  
11 times where "fuel" is used on lines 1 and 31

12 Senator Spang. I notice that is used all through here,  
13 including additives.

14 Senator Jordan. Is there any reason to put anything in this  
15 bill that tells anybody what kind of fuel to use the emission  
16 standards that are met?

17 The Chairman. Bob, you talked about fuel additives.

18 Mr. Royce. Add the word "additive" after "fuel" in both  
19 uses.

20 Mr. Billings. The language in the section goes to the pro-  
21 hibition to the use of fuel, doesn't it?

22 Senator Spang. I think it does.

23 By regulation, prohibit the use of any fuel. This is on  
24 page 7, lines 18 and 19.

25 Senator Bagleton. The caption, which isn't necessary

1 language, talks about fuels and fuel additives.

2 Senator Spragg: I think it would be better to say "fuel and  
3 fuel additives."

4 Senator Curney: Where does this go?

5 Senator Spang: At the end of Section 2 on page 71. That  
6 at the top of the page, too. It would be at the end of that  
7 paragraph.

8 Senator Boggs: It is limited to fuel for vehicles.

9 Senator Spang: It is under Title 10?

10 Senator Boggs: Yes.

11 The Chairman: Let us ask Dick Grundy to comment on this.

12 Dick?

13 Mr. Royce: I just want to query Senator Spang whether his  
14 amendment would apply only to fuels for new vehicles.

15 Senator Spang: It is under Title 10.

16 Senator Muskie: I have just raised this question with the  
17 staff. I think we ought to act on Senator Spang's amendment,  
18 because the question you have just raised applies not only to  
19 Senator Spang's amendment, but in general. So I think if we could  
20 dispose of Senator Spang's amendment first, then we could get to  
21 the second question, which I was about to raise.

22 The Chairman: Correct?

23 Senator Jordan: Now, Senator, this is a question purely for  
24 information.

25 Is there any reason why the Secretary can prohibit the use

1 of lead if the emission levels which are contemplated by this  
2 do away with any noticeable effect from lead. I don't think we  
3 have the right to say what you can use and what we can't use.  
4 What we want to know are what are the emissions of the successful  
5 and how would they affect people's health?

6 Mr. Royce: Senator, under the proposed system, especially  
7 the General Motors catalytic muffler system, lead destroys the  
8 catalyst.

9 Mr. Grundy: The spirit of the amendment is that it is open  
10 to the emissions, so there would have to be an emission control  
11 place. So if someone developed a system that could deal with  
12 that, then this provision would not apply.

13 Senator Jordan: In other words, they can use anything they  
14 want to as long as the emissions meet the standards.

15 Mr. Grundy: That is right.

16 Senator Muskie: Yes.

17 Senator Jordan: You may have some other kind of a muffler.  
18 I don't know.

19 Senator Muskie: May I ask the vote on the Strong Amendment?

20 The Chairman: Yes.

21 Senator Spang: I will second the motion.

22 The Chairman: That is fine. Here is a motion and a second,  
23 and without objection I declare the motion passed.

24 Senator Muskie: The second question that I think needs  
25 clarification, and I think Senator Wynn is going to address it

1 with the amendment, is whether or not a fuel or additive that is  
 2 subject to prohibition because of its effect on the catalytic  
 3 converters of new cars, whether or not such fuel would be practical  
 4 with respect to cars already on the road, whose performance is  
 5 geared to fuels now available, and that might not seriously view-  
 6 out the availability of such fuels.

7 Senator Boggs. Well, Mr. Chairman, I wasn't planning to  
 8 change anything that wasn't already in the bill as it came out  
 9 of the subcommittee. I was simply offering a revision of the lan-  
 10 guage to clarify and to make more certain what I thought was the  
 11 intention of the subcommittee with the language that came out  
 12 of the subcommittee and recommended to the full committee.

13 Senator Muskie. As I understand your language, I think you  
 14 may get to the problem I have raised.

15 Senator Boggs. I see.

16 This is draft language, which I understand has been approved  
 17 Have you seen it, Lead?

18 Mr. Billings. Yes.

19 Senator Boggs. I don't like anybody to tear four or five  
 20 pages to give one thought though.

21 Senator Boggs. I agree with you.

22 The Chairman. Gentleman, we will recess for now, we shall  
 23 seven minutes.

24 (Whereupon, a brief recess was taken)

25 The Chairman. Shall we come in order, please?

1 Senator Muskie. I would like to urge that we keep the well  
2 fare think in. It is not related to a deadline. There is no  
3 deadline on this. It is addressed to the Secretary's discretion  
4 knowledge is constantly increasing, and if the Secretary finds  
5 that there are these other environmental effects that are related  
6 to the public interest, then it seems to me he ought to have the  
7 discretion to act.

8 So I like the broader language.

9 The Chairman. I called to the attention of the members you  
10 Chairman's feeling about the first sentence, "The Secretary may  
11 by regulation designate any fuel or fuels," and I think it is  
12 very important, Caleb, to say "for use in motor vehicles."

13 Senator Boggs. I agree.

14 The Chairman. We are not going across the wide territory  
15 here. We are dealing with motor vehicles.

16 Senator Boggs. I agree a hundred percent, and I would agree  
17 that, as far as I am concerned, as an amendment to this language

18 The Chairman. Thank you very much.

19 Senator Boggs. Thank you for bringing it up.

20 Senator Gurney. Mr. Chairman!

21 The Chairman. Yes, go.

22 Senator Gurney. One question on this public health and  
23 welfare, can we have one example where public health would be  
24 involved and welfare would not, where welfare would be involved  
25 and public health would not?



1 Unless we can come up with some concrete evidence, I don't  
2 see much point in it.

3 Senator Muskie. If we had the evidence implicit in your  
4 statement, we would be setting deadlines now, and Congress would  
5 be acting on them.

6 What you are saying is that unless we are satisfied there  
7 is evidence, we ought not to give the Secretary discretion. Let  
8 me add that there is enough evidence that additives like that  
9 that have other deleterious effects, we ought to have the Secretary  
10 monitoring it, watching it, and then exercising his discretion  
11 to act.

12 Senator Gurney. I understand that, Ed, but what I am asking  
13 for is this: Let's have a concrete example of where that welfare  
14 fare thing would be important. For example, you are talking  
15 about pollutants in the upper atmosphere that may bring another  
16 glacial age to America. That is what we are talking about?

17 Mr. Billings. There is scientific evidence that lead in  
18 the atmosphere is contributing to weather modification, to  
19 weather changes.

20 Senator Jordan. Some say "yes" and some say "no."

21 Senator Gurney. That is exactly what I am asking, and it  
22 seems to me we are talking about that extremely nebulous thing,  
23 and my own feeling is that I think we ought to confine this  
24 bill to concrete solutions, to solutions referring to public  
25 health and not worry about glaciers and another ice age.

1 Senator Wooten: May I say that there are many examples  
2 of glaciers or ice ages here.

3 The point I would make is that so many of these nebulous  
4 attacks in the past have been nebulous things which nobody could  
5 prove. We have frozen in our society an automobile technology  
6 that confronts us with over 100 million automobiles that we have  
7 no way to clean up. We have frozen in an industry on which we  
8 depend on, the whole society depends, because we are depending on it  
9 nebulous things that nobody could prove anything about.

10 Now you are saying again, until we can prove something we  
11 give nobody any authority to deal with it, until the harm is  
12 demonstrable. We give nobody authority to take preventive  
13 measures.

14 Well, I just think it is time we got away from that philoso-  
15 phy. There is enough evidence to indicate that this kind of  
16 damage is developing, and we ought to put ourselves in a position  
17 to say sufficiently in advance before we freeze a whole new tech-  
18 nology into the society, somebody to act to prevent it.

19 I don't know why this reluctance to take preventive measures  
20 That is what we are trying to write into the position of the  
21 bill.

22 Senator Burney: That is not my position at all. You com-  
23 pletely misunderstand me.

24 Senator Wooten: I am not trying to state your position.  
25 I am trying to state my position.

1 Senator Gurney. You are stating my position, and that is  
2 not my position.

3 Senator Muskie. I am stating mine, but you can take about  
4 it as you like.

5 Senator Gurney. We have an air pollution bill that we are  
6 trying to zero in on and correct air pollution.

7 If I may have your attention, I don't think ---

8 Senator Muskie. I am listening.

9 Senator Gurney. I don't think we should neglect these  
10 other things either, but what I say is this: Let's go after this  
11 with the Environmental Quality Commission or some other bill  
12 that tackles that very broad concept, and not let this bill zero  
13 zeros in on air pollution as far as automobiles and factories and  
14 other concrete things that we now have existing pollution now are  
15 concerned.

16 Let's be practical. Let's zero in on something we are trying  
17 to correct and can correct rather than going on a fishing expedition  
18 all over the world about let's correct the atmosphere or  
19 resolve all the problems from now on to eternity. I think this  
20 is the difference between our concepts.

21 If you want to have a broad research program, let's set it  
22 up; but not in this bill.

23 Senator Muskie. May I say that just as the Senator objects  
24 to anybody I say which seems to characterize his position, I  
25 object to the characterization of this provision as a fishing

1 expedition. This is based on scientific findings of direct  
 2 atmospheric effects, not finally proven in any way that would  
 3 us in order to freeze in an answer, but it is not a fishing  
 4 expedition. It is something real, something I am concerned  
 5 and I am not attributing any motive to the Senator when I say  
 6 that.

7 I am concerned about it. I think it is important. I think  
 8 the argument has been made, and I think we ought to have a good  
 9 Senator Cooper. I am always asking a question.

10 As I understand the amendment which you offer, Senator  
 11 Boggs, deals only with health, is that correct?

12 Senator Boggs. The way it is drafted, it deals only with  
 13 health, that is correct, and I was under the impression that  
 14 that was the conclusion reached by the subcommittee on that. I  
 15 may have the wrong impression.

16 I have no serious objection to putting welfare in there,  
 17 but I thought this is what tentatively the subcommittee had agreed  
 18 on.

19 Senator Muskie. The committee print includes the words "or  
 20 welfare."

21 Senator Boggs. Yes, the committee print does, but I thought  
 22 we had had a discussion on that.

23 The Chairman. Senator Cooper?

24 Senator Cooper. I had thought myself that health and welfare  
 25 were such as could be determined objectively. There is some

1 evidence there.

2       What you are proposing, Senator Muskie, is that in addition  
3 we be able to set standards which can be, I think, determined  
4 objectively, that he shall also be authorized to set other  
5 standards.

6       I am trying to make a distinction on which could be deter-  
7 mined objectively and which subjectively.

8       Suppose he sets standards which deal with the environment  
9 not just a person's health, but which may have some effect upon  
10 the good old word "ecology" and the foliage and the environment.  
11 Is there a provision that provides for hearings on these things?

12       Senator Muskie. I think all these decisions, and I will  
13 ask the staff to correct me, and I am relying on the level  
14 memorandum we saw yesterday -- I would think all the provisions  
15 are subject to the provisions of the Administrative Procedures  
16 Act and also judicial review.

17       Senator Cooper. I have no objection to broadening the scope  
18 if the bill provides for hearings.

19       Senator Muskie. On page 74, paragraph (E), the staff tells  
20 me.

21       Mr. Billings. The Administrative Procedures.

22       Senator Muskie. The reference on lines 12 to 16 on page 74  
23 relates this to the Administrative Procedures Act.

24       Senator Cooper. In other words, if he determines to go  
25 ahead and set standards to deal with the environment, ecology

1 and all that, wouldn't it depend wholly upon his determination,  
 2 but there would be an opportunity to determine whether or not such  
 3 standards are necessary, or are arbitrary or should be fixed  
 4 is that correct?

5 Mr. Billings: Mr. Chairman, the provision is for comment,  
 6 not for hearing. Title 25 of the Code would provide for hearings  
 7 in the full administrative procedures.

8 Senator Cooper: I don't care about any procedures on these  
 9 matters dealing with health. Those are pretty objective. When  
 10 you get into other factors, I think there ought to be some way  
 11 to have hearings.

12 Senator Muskies: As I understand the legal memorandum which  
 13 I submitted yesterday, and I may be wrong, because we didn't see  
 14 it in connection with this provision, but I gather from that  
 15 memorandum that any discretion that is granted to the Secretary  
 16 in this bill is subject to review by the courts.

17 Mr. Billings: Yes. I was just pointing out in developing  
 18 the regulations under this provision. After publishing of the  
 19 Secretary, it allows opportunity for comment. He doesn't have  
 20 hearings specifically.

21 If you use 554 of TITLE V U. S. Code, you would have to  
 22 have hearings.

23 Senator Cooper: Let's make it clear that upon these issues  
 24 that are not dealing with health that there is some provision for  
 25 proper hearings.

1 Senator Muskie. I have no objection to that. The staff  
2 seems to be wandering all around here.

3 Senator Cooper suggests -- and I have no objection to  
4 that -- that with respect to any considerations, with respect to  
5 the setting of standards that relate to question other than health,  
6 that there ought to be hearings, and I have no objection to that  
7 and I would ask that the staff, if we agree on everything else,  
8 write the proper language.

9 Senator Cooper. I don't say when, but there may be a man  
10 on a white horse, you know, and he might carry it too far.

11 Senator Jordan. Could we go off the record?

12 (Discussion off the record.)

13 The Chairman. Dick, would you make some comments please?

14 Mr. Royce. Just briefly, Mr. Chairman, with regard to the  
15 necessity of having public welfare included in this amendment,  
16 some of the dangers of lead, using lead merely as an example, and  
17 greater from its getting into the water from leaching off high-  
18 ways, and this would be equally true of some of the aromatic  
19 hydrocarbons that might be used instead of lead, and we don't  
20 have control of that through the state acts.

21 About the only way you could get at this would be with the  
22 provision of this sort of language in the amendment.

23 Senator Gurney. Wouldn't that lead to water, and drinking  
24 and so forth?

25 Mr. Royce. It might, or might not, Senator. It might not

1 be a measureable effect on health, but would have an effect on  
2 stream ecology.

3 Senator Gurney. I don't object to "welfare" in the language  
4 so long as we tied it down to something that made sense objec-  
5 tively and workably, rather than perhaps some far-out research  
6 effort. That is really what I am talking about.

7 Senator Muskie. Of course, in the report we can spell out  
8 kinds of things that we are concerned about. We certainly don't  
9 intend it to be applied frivolously or arbitrarily or unreasonably,  
10 and we can say that in the report, but where there are real  
11 dangers that aren't necessarily personal health dangers, I think  
12 we ought to have some authority to act.

13 You can say all that in the report.

14 Mr. Billings. I might point out to Senator Gurney one  
15 additional thing that slipped my mind.

16 When we were in Riverside, California in 1967, we went to  
17 the experimental station of the university there, and it showed a  
18 great deal of evidence of the effects of lead from gasoline on  
19 crops, on plant life, on orange groves and other plants in their  
20 laboratory.

21 So there are these kinds of effects also that are known.

22 Senator Gurney. This, I would think, would be clearly  
23 characterized under public health.

24 Senator Muskie. Why don't we do this? Why don't we ask  
25 the staff in the report to indicate the kinds of things that



1 raise tentative warning flags, and say these are the kinds of  
2 things we have in mind, that the dangers guarded against ought  
3 to be of this order of impact upon the public welfare.

4 Senator Gurney. I think that would be good, and actually  
5 as far as the broad research is done or a lot of other things that  
6 we might not even imagine now, we may have to go into this. But  
7 I don't think we should do it in this particular bill is what I  
8 am saying.

9 Senator Muskie. Why don't we, Mr. Chairman, to write that  
10 kind of report language in order to indicate the restraints that  
11 we would hope the Secretary to exercise in using this authority?

12 The Chairman. I would ask that the staff do this, and I think  
13 the members generally would find this helpful and necessary.

14 Senator Boggs. Mr. Chairman?

15 The Chairman. Yes.

16 Senator Boggs. We did accept Senator Cooper's proposition?

17 The Chairman. Yes, and mine, too.

18 Senator Boggs. That is correct.

19 Senator Eagleton. Is the Boggs Amendment before us?

20 Senator Muskie. Yes, and I would like to add, to finish  
21 out the pattern here, that the words "on welfare" be added to  
22 the Boggs Amendment.

23 Senator Boggs. No amendment.

24 Senator Spong. I would like to ask Senator Boggs if he would  
25 include the language I just had?

1 Senator Jordan. Is the Secretary going to prohibit any use  
 2 of fuel so long as it doesn't affect people's health?

3 Senator Muskie. There are two standards, and there ought  
 4 to be no mistake about this. The principal reason why we've  
 5 gotten into this in the first instance is health and the fact that  
 6 some of the control technology to clean up the automobile depends  
 7 on whether or not lead is used in the fuel.

8 So if the Secretary decides to prohibit the use of lead in  
 9 order to make it possible to reduce emissions from automobiles,  
 10 this bill gives him authority to do so.

11 What I am saying is that if he uses that as an order to make  
 12 it possible to clean up new cars, and yet at the same time permit  
 13 not to prohibit its use in used cars if its use in used cars is  
 14 not harmful to health. That is the point I was trying to make.

15 Senator Jordan. But you still come back to the fact that  
 16 if somebody develops a muffler of any description that would  
 17 prohibit dangers from lead, he could still use lead.

18 Senator Muskie. The answer to your question is still the  
 19 same.

20 Senator Spong. I may have missed this. I had to leave for  
 21 a few minutes. But in the language that you are proposing, it  
 22 calls for a finding by the Secretary and a publication of that  
 23 finding. Is that covered in your language?

24 Mr. Billings. Yes, sir; paragraph 2 on page 3.

25 Senator Richardson. While we are at that point, I have an

1 amendment that I was going to offer to the bill, and I will offer  
 2 it to the Boggs Amendment on this subject in 1971, but I don't  
 3 want to preempt Senator Spong.

4 Senator Spong. No ahead.

5 The Chairman. Yes?

6 Senator Eagleton. I would amend, in dealing with the Boggs  
 7 Amendment, which is the four-page thing before us, on page 1,  
 8 subsection (3) (1), the third line from the bottom, where it  
 9 says "the most effective program," I would strike "the most" and  
 10 put in the word "an."

11 On the next line, where "the most economic" appears, I  
 12 would strike "the most" and substitute "an."

13 When you put in the language that it must be the best, it  
 14 gets back fairly close to the House language, which puts an  
 15 almost impossible burden on the Secretary to prove or disprove  
 16 an almost endless list of hypothetical negatives. That is  
 17 someone could say, "Well, if you put an Alka-Seltzer tablet in  
 18 every tank of gas, that cleans it up," so I would then have to  
 19 do exhaustive research disproving that Alka-Seltzer didn't clean  
 20 up the gas tank, because if it could, something else would not  
 21 be "the most."

22 I am talking off the top of my head, but somebody might say  
 23 that if you put in iodine it would work.

24 So he is always challenged to show "the most," and he can't  
 25 rebut the hypotheticals that might be submitted to him. That was

1 the great failing, I thought, of the House language that deals  
2 with this section.

3 I think we fell partially in that area when we used words  
4 like "the most" and I was going to offer it as an amendment.  
5 The Boggs Amendment changes it.

6 To repeat my amendment, I would have to strike out "the  
7 most" on the third line from the bottom and put in the word "an"  
8 and likewise on the bottom, to strike the words "the most" and  
9 put in the word "an."

10 The Chairman. Before the staff, I want to say that I object  
11 well to it.

12 Senator Muskie. What I want is a staff interpretation  
13 of the language here.

14 The Chairman. Would you give the interpretation?

15 Mr. Royce. I think, Mr. Chairman, that the amendment pro-  
16 posed by Senator Eagleton would, in effect, do what he says,  
17 and that we don't need the language which he would delete,  
18 because the controlling language is the program of emission con-  
19 trol to meet the standards established by Section 202(d) if the  
20 system meets those standards, it doesn't have to be the most  
21 effective.

22 So in both instances I think that is true.

23 Senator Boggs. Mr. Chairman, I might point out to Senator  
24 Eagleton and the members that that is not necessarily language  
25 of the so-called Boggs Amendment. It is in the bill.

1 Senator Baniotas. I tried to make that clear, that I was  
2 going to offer the other bill. Senator Baniotas. Did you give  
3 correct, it is in the bill, very much so, on page 91.

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reba 1 Senator Muskie. Can we have the rationale for the language  
1 fls 2 that is proposed to delete?

Geok 3 Senator Boggs. Mr. Chairman, Harold Brayman, will speak  
4 to that.

5 Mr. Brayman. I believe that language was put in in the  
6 bill to prevent the secretary acting with --- well, to put some  
7 control on what action the secretary could take. In other words,  
8 if he was offered two alternatives systems, and for one reason  
9 or another it was required that he make a test that one system  
10 is better than the other, or that one system is going to be cheaper  
11 to the public, he could choose.

12 The language does not become effective, I don't think, if  
13 you say he may prohibit fuels or additives to achieve emissions,  
14 a program of emissions control.

15 That in effect does not put any control over his discretion.  
16 If you say that he has got to act to achieve the most effective  
17 program of emission control and then you say to him, "you  
18 have, in order to ban lead you have to make a finding that  
19 this is going to be the most effective system, not an effective  
20 system, or you have got to, in order to ban lead, you have to  
21 find it is the most economical alternative.

22 Senator Muskie. But a single system might not be both.

23 Mr. Brayman. It says more. He has to be the most effective  
24 or most economical.

25

2 1 Senator Muskie. Wouldn't it be more effective to use the  
3 language suggested by Senator Eagleton and indicate that the  
4 Secretary should balance any choices he may have to achieve  
5 maximum effectiveness and maximum economy to the motors?

6 The chances are he is going to have to balance the two.

7 The Chairman. Yes. You are going out into the market place  
8 here. You are becoming competitive.

9 Senator Muskie. What we want to do is achieve maximum  
10 effectiveness and at the same time reasonable cost to the  
11 motorist. That is really what we want, isn't it?

12 Senator Boggs. Sure. I have no objection to report language  
13 like that at all.

14 The Chairman. Now, we have the amendment of Senator  
15 Eagleton before us. Is there a desire to have a role call on this  
16 matter?

17 Senator Eagleton. No. It is my amendment to the Boggs  
18 thing.

19 The Chairman. Yes, I understand. That is an amendment to the  
20 Boggs amendment. Without objection, then, we approve it.

21 Senator Spong. Mr. Chairman, may we return to my earlier  
22 question?

23 As I readpage 3 of your amendment, the finding and publi-  
24 cations of such finding with regard to prohibition only applies  
25 to those few fuels that do not endanger the public health.

Why?

3 1 Mr. Brayman. Because that was the language the subcommittee  
2 approved.

3 Senator Spong. No, I am reading from 71 of the bill, and  
4 then looking at page 3 of your bill.

5 Look at page 71 of the bill.

6 Senator Boggs. What line on 71?

7 Senator Spong. Section 2.

8 Mr. Billings. On 71, prior to establishing any pro-  
9 hibition for other than protection of public health and welfare  
10 the secretary shall find and publish such findings. It means  
11 he would not have to find and publish a finding for prohibition  
12 that was designed to protect public health and welfare. I  
13 think the Boggs amendment does the same thing.

14 Senator Spong. It does the same thing.

15 Mr. Billings. Yes.

16 Senator Spong. All right.

17 Mr. Billings. The reason being that if the tests are for  
18 public health and welfare, you are not getting into competing  
19 economies between emission systems and effectiveness and so  
20 on. There are not the questions that your amendment apparently  
21 wanted to make sure were publicly identified.

22 Senator Spong. All right.

23 Senator Muskie. Mr. Chairman, have you moved the substitute?

24 Senator Boggs. I thought we did.

25 Senator Muskie. I will second that motion.



1 The Chairman. Is there a desire to have a vote on that  
2 matter?

3 Then without objection we will proceed with committee  
4 approval without a vote. Are there other comments?

5 Senator Eagleton. Mr. Chairman, if I may, I am supposed  
6 to preside from 12 to 1. Can I ask a question on title IX?

7 I don't want to discombobulate here.

8 The Chairman. What page?

9 Senator Eagleton. Could I direct the committee's attention  
10 to page 65, section 210, state standards?

11 That is starting with line 5, and I am concerned with lines  
12 5, 6, 7, and 8. That refers to vehicles, new commercial vehicles  
13 and so forth. The way I read that section, and I am concerned  
14 about fleet automobiles, fleet trucks. The evidence is that  
15 in New York City fleet vehicles which are buses, cabs, city  
16 trucks, trash haul trucks and the like constitute fifty percent  
17 of the air pollution problem of New York City. Somebody has  
18 testified to that effect, whether accurately or not, somebody  
19 testified that is what is, what it was.

20 As I read that section now, mayor Lindsey, et cetera,  
21 would be prohibited from requiring used cars in fleets, be  
22 it cabs, buses, trucks, from putting on some kind of device.

23 I ask, shouldn't we consider if that testimony is correct  
24 as to what fleet thinks can do, and a fleet thing is not like  
25 the itinerant car, and each of us has a car and we drive all

5 1 over the country, a fleet of trucks in New York City, a fleet  
2 of cabs in New York City, if we should not give Lindsey the  
3 authority to require for used trucks, et cetera, that the magical  
4 device X, if there is one, be applied.

5 Maybe I am misreading the section.

6 The Chairman. Leon?

7 Mr. Billings. Senator Eagleton, the intent, and this may  
8 not be clear, if the Secretary exercises his authority under  
9 this title to prescribe and enforce standards for commercial  
10 vehicles, then those commercial vehicles are protected from  
11 additional standards being applied to them.

12 So once there are emission standards and used vehicle  
13 control on commercial vehicles promulgated by the Secretary,  
14 mayor Lindsey would not be able to put on additional requirements  
15 the way this is written.

16 However, in the interim if Lindsey comes out next week or  
17 next month after the bill is enacted, came out and caused new  
18 controls, to be added in New York City, he would not be prohibited  
19 You have to have a standard under this.

20 Senator Muskie. After standards are imposed, lines 13  
21 to 17 give the right to the secretary to grant more restrictive  
22 authority to the state upon a showing.

23 Senator Jordan. There might not be a device available  
24 that would fit on a used vehicle of this description that could  
25 be adapted to it.

6 1 I am not saying that there is, but there might not be  
2 in there. You would not want to ground all the yellow cabs  
3 in New York.

4 Senator Muskie. Under his provisions of the act, other  
5 provisions, you can do that. You can absolutely prohibit  
6 the movement of used cars in New York City.

7 Senator Jordan. Then there would be a new mayor.

8 Senator Muskie. That is the point, but he has that authority.

9 Senator Jordan. I don't think he would.

10 Senator Muskie. He said in his telegram that he intends  
11 to.

12 The Chairman. I think, Tom, that you would not press this  
13 matter on the floor.

14 Senator Eagleton. Could I suggest, or ask if it would be  
15 acceptable, on page 7, where his reads, "from commercial  
16 vehicles", to insert the words "New" because you have this in  
17 the next one, "new non commercial vehicles."

18 Senator Muskie. Why isn't the word "new" before the  
19 word "commercial" now?

20 Mr. Billings. Because there is authority under this title  
21 for the Secretary to act against used commercial vehicles.  
22 That is commercial vehicles on the road.

23 As Senator Eagleton points out, the major source of  
24 air pollution in urban areas are fleet vehicles, and it may be  
25 that they will come up with a device under the section for used

7 car devices.

2 If he comes up with that, then he can require that to be  
3 retrofitted on to used commercial vehicles.

4 New commercial vehicles will be set forth in the section,  
5 and passenger cars will be covered by the standard set forth  
6 in 202(b)(1).

7 The Chairman. Maybe this is not an example, but let's  
8 say that a truck leaves Charlotte, and that it moves through  
9 this city and that city and another city. What is the situation,  
10 Barry?

11 Mr. Meyer. If under the law the court has ruled on safety  
12 equipment on vehicles, if it is required on constitutional ---  
13 thought was done with flap devices a few years ago.

14 They would have to meet their own standards.

15 The Chairman. Leon?

16 Mr. Billings. A suggestion that may solve your problem,  
17 under the exceptions, exemptions where such state demonstrates  
18 under public hearings to the satisfaction of the secretary  
19 that more restrictive emissions from commercial vehicles,  
20 that would identify them, because this exception is no longer  
21 necessary if 202 (b) (1) having been adopted, sets standards  
22 for vehicles which meet national ambient air standards.

23 So the only question left is commercial vehicles.

24 You put it in there and you state that Lindsey can come  
25 forward and say, I need tougher standards than those you

1 prescribe.

2 Senator Muskie. Is there any doubt he could come from the  
3 secretary for authority under lines 13 to 17?

4 Mr. Billings. No, it would clearly state it, and it would  
5 solve another problem we have, and that is by definition 202  
6 (b) (1) implements the national ambient air quality standards,  
7 so we don't need this exception for new cars.

8 The Chairman. I think with deference to you, of course,  
9 that you are dealing with an imaginative problem, and not a  
10 real problem.

11 Senator Eagleton. Perhaps I am, Mr. Chairman.

12 I go to New York City quite often, and the number of fleet  
13 cars and the amount of pollution fleets cause, with that it  
14 seems to me they might want remedial relief.

15 Senator Muskie. Let me focus on this, what I think is the  
16 heart of your question. All this provision does is say whatever  
17 the secretary does in exercising authority to set emission  
18 standards, and under the bill that authority applies to New  
19 passenger cars and new and used commercial cars, and he has that  
20 authority.

21 We have exercises, then that preempts state authority  
22 now unless a state comes in and asks for permission to impose  
23 more stringent requirements.

24 Are you saying that ----

9 1 Senator Eagleton. Is that what this says?

2 Senator Muskie. Yes.

3 Senator Eagleton. If that is what this says, that is what  
4 I want. If it says, fine.

5 Senator Muskie. And if we need report language to clarify  
6 that, let's have the report language.

7 The Chairman. Tom, one of your problems up there would be  
8 your city buses. They are the fleets.

9 Senator Eagleton. Yes, and the city dump, their trucks.  
10 He could buy exhaust things for those, of course.

11 The Chairman. So we clarify, what have we done, Leon?

12 Mr. Billings. I don't think we have done anything, sir.

13 The Chairman. All right.

14 Senator Muskie. Mr. Chairman, unless some one has offered  
15 title II, in order to get that out of the way -----

16 Senator Boggs. I have one thought on Title II, Mr.  
17 Chairman, and I will be brief, on page 65, lines 13 to 18,  
18 the simple suggestion is that on reconsideration do we need  
19 that language in there except where such state demonstrates  
20 after public hearings to the satisfaction of the secretary  
21 that more restrictive emissions for vehicles or engines  
22 are required?

23 Do we need that?

24 The Chairman. I think so.

25 Mr. Billings. For commercial vehicles, obviously you need  
it.

10 1 Senator Boggs. All right. I see where the secretary has  
2 control over things. It is up to him, but I just thought it might  
3 lead to a lot of different types of emissions requirements. We  
4 already have the California provision in another place in the bill.

5 Senator Muskie. You know, under the ambient air quality  
6 section, it is going to be hard, it is going to be darn tough  
7 to implement those standards for these items and cities. It seems  
8 to me that we ought to give them this extra tool if they need  
9 it.

10 Senator Gurney. Most of the thrust of the section is  
11 for used commercial vehicles, isn't it?

12 Senator Muskie. Well, let me ask the staff this: Is it  
13 conceivable --- what we have related the new car provisions of  
14 this bill to is public health, and we have also said in the  
15 national ambient air quality standards that regions could be  
16 to more stringent requirements than that, in other words, public  
17 health and welfare, if they wish.

18 So if cities want to ask for more restrictive standards,  
19 or to implement the national ambient air quality standards at  
20 a faster pace they need this language.

21 What harm does this language do to anybody?

22 Senator Boggs. I can't see why it is needed, but what  
23 harm does it do?

24 Senator Muskie. Are we just being perfectionists here,  
25 or is this a real issue?

11 1 Senator Boggs. I hope I am not.

2 Mr. Brayman. I think the point you just made, Senator,  
3 is covered. My suggestion in mentioning this is that maybe  
4 the addition of the word "commercial" on line 15 before "vehicles"  
5 that what it would do is that section 202 sets very high  
6 restrictive standards.

7 To say then that any state can come in and petition for  
8 similar or a little tighter standards too does not seem to gain  
9 very much, and it might prove an excessive burden where you  
10 have 50 standards around the country.

11 What I am trying to say is that I think with the standards  
12 in 202 as approved by the committee, you have a clean car for  
13 all practical purposes.

14 This language just raises the possibility, which may be  
15 detrimental to the bill and to the national program, of having  
16 fifty different standards.

17 Senator Cooper. May I ask a point?

18 The Chairman. Yes, Senator Cooper.

19 Senator Cooper. As I understand what you are saying  
20 it is this. You already have in the bill at this point assurances  
21 as best we can that a vehicle will meet certain standards,  
22 and if you put this in, you get the possibility that the  
23 automobile might have to --- the cost might have to produce  
24 a car with different fittings and all that?

25 Mr. Brayman. In theory, they might have to meet 50



12 1 different standards rather than one.

2 Senator Cooper. So they might have to produce 50 different  
3 types of cars.

4 Senator Boggs. And fifty problems, then.

5 Senator Muskie. Mr. Chairman, we are going to have a vote  
6 at 1:30. This particular provision got extensive treatment  
7 in the subcommittee and it got extensive consideration when it  
8 was adopted in California in whatever law that was --- I forgot  
9 now --- in 1967, I think.

10 I doubt that it employs the kind of real risk that has  
11 been suggested. If there were a risk that this could be opened  
12 up in fifty states, then the whole provision is meaningless,  
13 because it has been argued and pointed out that section 202  
14 does, so far as we know now, apply as strict standards as could  
15 be conceivable.

16 If that is the case, what is the risk? You can't use the  
17 argument both ways. If that is the case, the chances that there  
18 will be fifty different standards is minimal.

19 On the other hand, if we havenot adopted standards strong  
20 enough, then why eliminate the language that permits the cities  
21 to come in and ask for something more strict?

22 There is nothing written in the law that would cause  
23 proliferation of state standards, but there is a real possibility  
24 that more stringent standards maybe necessary, and I see no  
25 reason not to retain that provision, which we went over at length

1113 1 in the subcommittee, and on which we have been satisfied up  
2 to this point.

3 Senator Gurney. Mr. Chairman, let me ask a question here.  
4 I think we are talking mostly about commercial vehicles here.  
5 The standards we have set here legislation wise and which will  
6 be set up by the secretary certainly will be very stiff ones.

7 What if we confined that state authority to used commercial  
8 vehicles?

9 That is, instead of new ones. Does that help out any?

10 Senator Muskie. I think it takes the flexibility out with  
11 respect to all the moving sources of pollution mentioned in  
12 this section. I see no reason not to have it apply to vessels,  
13 aircraft, and it seems to me that we ought to retain flexibility  
14 to respond to especially difficult situations.

15 In Title I we have imposed a tough standard on these communi-  
16 ties. We have said you have to achieve ambient air quality  
17 standards by 1975.

18 They are going to have to have a lot of tools, and I see  
19 no reason to deprive them of this flexibility, remote as may be  
20 the possibility that it will be used, and I think the argument  
21 for the change is based on the fact that there is remote possibility  
22 that there will be flexibility, but you can't use it, can't use  
23 the idea both ways.

24 Senator Boggs. I won't press it.

25 The Chairman. I think you are correct, Ed, in this matter.

14 1 Senator Boggs. I won't press it.

2 The Chairman. Thank you.

3 Now, where do we stand at the moment?

4 Senator Muskie. If there are no further questions on Title  
5 II, in order to dispose of that and get on to the main questions  
6 of the bill, I would move that we approve of Title II.

7 Senator Cooper. I would like to ask one question. Is federal  
8 procurement in there?

9 Mr. Billings. That is in title III, Senator Cooper.

10 The Chairman. Ed has moved that title II be approved as  
11 amended. Is there any need ---

12 Senator Boggs. I second it.

13 The Chairman. Caleb seconds it. There a need for a vote on  
14 this matter?

15 Then without objection, it will be approved.

16 Senator Muskie. Why don't we go to the question, Senator  
17 Cooper just raised, because I know that is another one.

18 Senator Cooper. Let me see if I understand what we did  
19 on warranty. I have no amendment. I just want to ask this  
20 question.

21 Do I understand the language that you suggested and which  
22 was adopted would impose upon the purchaser and the owner  
23 of the car the duty of fulfilling certain requirements?

24 Senator Muskie. In accordance with the manufacturer's  
25 instructions.

15 1 Senator Jordan. If he expects to get help from the manu-  
2 facturer.

3 Senator Cooper. That is all right.

4 This section 81, I think, was suggested by my colleague,  
5 page 81, Federal Procurement.

6 Senator Muskie. Incidentally, you have just been given  
7 the language we have adopted and which relates to the point you  
8 just made.

9 Mr. Billings. The language does not refer to the 50,000  
10 mile change, but it does refer to the warranty.

11 Senator Cooper. As I understand it, its purpose is to  
12 prohibit procurement from a person who has failed to comply  
13 with an order from a federal court, or who was convicted by a  
14 federal court for knowing violations.

15 It seems to me, looking at it, beginning on line 24 and  
16 going down to the end of the section that is covered the purpose  
17 pretty well without having section 306 and 306 A and B.

18 I don't want to nitpick, but this 2 in 306 A where a person  
19 has been convicted for a knowing violation of any provision,  
20 he will be prohibited from selling to the government for one  
21 year afterwards, even though he may be in compliance. There  
22 is a double punishment.

23 He is convicted, and even though he now may be in  
24 compliance, he can't sell to the government.

25 Senator Boggs. For how long?

1 Senator Cooper. A year.

2 The Chairman. Senator Cooper, I would like for our counsel  
3 to comment on this matter.

4 Senator Cooper. My point is that I think line 24 down to  
5 the end would cover this thing.

6 The Chairman. We have had some representations made that  
7 I think, barely, I would like for you to discuss.

8 Mr. Meyers. The major question was raised under 306 A  
9 it was raised by a question that has multiple interests, and  
10 they were concerned that if one of their operations came under  
11 this whether it would affect all their operations, and I  
12 think that is one of the issues the committee has to decide  
13 on, how we will handle it, because the way the language stands  
14 now we have one constituent element of a conglomerate, they  
15 might be able to knock out every one of them, because it is  
16 the same company.

17 Senator Cooper. That is the point I make. If you start  
18 with line 24 and go to the end of the section, it provides that  
19 the President shall set forth procedures, sanctions, penalties  
20 and so forth on the question of procurement.

21 It makes it more flexible, without the tough provisions  
22 raised in the question in 306 A.

23 The Chairman. Ed, do you have a problem or a comment  
24 on this problem?

25 Senator Muskie. May I ask the staff to give us the effect

17 1 of such a change?

2 The Chairman. What would be the effect, Leon?

3 Mr. Billings. Of deleting lines 24 through the end?

4 The Chairman. Yes.

5 Senator Muskie. John, what do you perceive?

6 Senator Cooper. It is a rigid provision. If they have been  
7 convicted in Federal Court, they can't contract with the Federal  
8 Government. In the first place it is a punishment. From there on  
9 it provides the President the authority to assist in effectuating  
10 the purposes of this act by regulation dealing with agencies  
11 in procurement.

12 I think it is more flexible.

13 Senator Muskie. Let me ask this question, John.

14 The section as it is now written in its entirety would  
15 prohibit the government's entering into contracts with violators  
16 unless the president finds that it's in the paramount interest  
17 of the United States not to.

18 With the change that you have made, he could continue  
19 such contractual arrangements even though they are not necessary  
20 in the paramount interest of the United States. Am I correct?

21 Senator Cooper. You could say that, but if the purpose ---

22 Senator Muskie. It is not specified in C that the action  
23 you take should include a refusal to deal contractually with  
24 such violator until he is in compliance.

25 Senator Cooper. The way it is written, you would have

18 1 to deal with almost every transaction in the United States.  
2 By issuing regulations applicable generally throughout the United  
3 States, I think we are going to be in a better position.

4 Senator Muskie. Are you saying this, then, that what you  
5 would like to see in section 306 is a similar purpose achieved,  
6 but achieved with the exercise of administrative discretion  
7 rather than detailed factors, and you would not object to a modifica-  
8 tion in the language of C which would more clearly state the  
9 purpose?

10 Senator Cooper. I have not discussed that with my colleagues.

11 Senator Muskie. I am just trying to clarify. I don't have  
12 a judgment on this at this point, but if I understand what you  
13 want, also, it is that it is a policy which would make government  
14 contracts unavailable to violators, but you want that policy  
15 administered by the president.

16 Senator Cooper. I think so.

17 Just to give you a difficulty right here, and I called  
18 attention to it awhile ago, lines 18 and 20. It provides that  
19 if a person has been convicted, for a period of one year following  
20 his conviction, he can't enter into a contract.

21 He may be in compliance, and it would be a double punishment.

22 Senator Jordan. Shouldn't it be that he could not do  
23 business with the government as long as he is in violation.  
24 A violation may have been caused by something over which he had  
25 no control.

19 1 I believe the Chrysler Corporation, or maybe General  
2 Motors, sells trucks and automobiles and tanks to the federal  
3 government, and if they should have a violation in the truck  
4 plant, inadvertently, they should not be barred from selling  
5 tanks or automobiles or other things.

6 That particular branch ought to be prohibited from buying  
7 them as long as they are in violation. That ought to be spelled  
8 out in the law.

9 Senator Cooper. What I am saying is that we should give the  
10 president authority to set up regulations that would be  
11 general all over the country where you won't have to make  
12 a determination about every thing.

13 Senator Muskie. May I ask if you would consider these  
14 changes, and if so, our staff can give their reaction to it.  
15 First, with respect to Senator Jordan's proposal, I felt right  
16 along that what we were talking about is a violation, that  
17 a prohibition is directed against a facility that is in violation  
18 or had been convicted, and that would get to the point that  
19 Barry raised.

20 Secondly, on lines 15 to 20, if we change that so that  
21 ineligibility could be washed out after the Secretary is satisfied  
22 of compliance ---- in other words, if that certification of  
23 compliance provided in both 1 and 2, whether with those changes  
24 your objections would be met.

25 Senator Cooper. I don't want to have a civil penalty



20 1       against someone.

2       Senator Jordan. I think that would cure it.

3       Senator Muskie. In the case of two, which involves conviction,  
4 if there has been a clean up, if the circumstances which led  
5 to the conviction have been corrected, why should thereafter  
6 be ineligibility for another year?

7       Mr. Royce. By accepting the proposals as phrased by you,  
8 Senator Muskie, I don't think it would weaken the sanctions  
9 in the bill at all.

10       Senator Cooper. It is just a question of here whether he  
11 has been in compliance.

12       Mr. Billings. I doubt you could have anybody convicted in  
13 the sense you are suggesting here for a long, long time.

14       Senator Muskie. The staff sees no objection to that, so  
15 I suggest those changes.

16       Senator Cooper. Leave out the part about conviction.

17       That is vindictive.

18       The Chairman. It is more than punitive, is it?

19       Senator Cooper. Yes.

20       Senator Muskie. May I say there may be some difficulty in  
21 drafting that language on the one facility? But let's make  
22 the effort, and if the staff runs into problems, I will direct  
23 the staff to consult with me and Senator Cooper.

24       The Chairman. That is fine.

25       Senator Jordan. You may say that that particular item,

21 1 for instance, a truck, it may be made in half a dozen different  
2 plants, so I think you would have to cite the big facility.

3 One plant may be in compliance and another one not, and  
4 inadvertently not know what they were bringing out was not  
5 in compliance, and then they correct it. You would not want  
6 to shut down all the plants.

7 The Chairman. I think we have an understanding here with  
8 the drafting of the language.

9 Senator Muskie. Let me make this point. The difficulty is  
10 you know, we are talking here on line 8 with no violations.  
11 Now, a single company may have automobile plants and truck plants  
12 in several locations.

13 They may knowingly violate this in one place. So you apply  
14 a prohibition to that one plant. There is nothing to prevent  
15 them from shifting the government contract to another plant  
16 and suffering no penalty.

17 If it is a knowing violation, the company may have had  
18 no pollution problem except one. They all manufacture  
19 trucks, and if they all violate in that plant, why should they  
20 be able to avoid the sanctions of the act by shifting the  
21 contract to another plant?

22 The Chairman. Ed, I think you and Senator Cooper could  
23 work out the language problem.

24 Senator Muskie. I suggest that the staff also, that we  
25 hear from Senator Jordan.

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The Chairman. Certainly, Senator Jordan and others on the committee if they desire.

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2:20 p.m.

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Senator Muskie. Are there other questions?

The Chairman. Is it all right, Everett, to move this way?

Senator Jordan. Surely, fine.

Senator Muskie. I think we ought to turn to the citizens  
suit subject. That is on page 78.

Mr. Meyer. These questions were raised by a couple of  
attorneys from downtown, who raised the question, number one,  
with the language at the top of page 78, on line 2, relative  
to the enforcement of the provisions of this act, that the  
language was broader than the committee had intended since  
what we had been seeking in citizens suits were actions to  
enjoin violators of the law, not to have the citizens suits go  
back and possibly cover all of the civil penalties, the standard  
setting mechanism, or anything like that as far as individual  
polluters were concerned.

Question number one can be taken care of by deleting the  
words "the provisions of this act including".

Senator Gurney. Where are we?

Mr. Meyer. Page 78.

Senator Gurney. What is the language?

Mr. Meyer. Delete the words, "The provisions of this act  
including". That removes that problem entirely.

Senator Muskie. Is there any disagreement on the part of  
the staff as to this deletion?

Mr. Meyer. No. Leon and I discussed it. Bill Cummings

2 1 discussed it.

2 Senator Muskie. The staff is in agreement?

3 Mr. Billings. I have one question that I think the  
4 Members should focus on. Do they or do they not want a citizen  
5 to bring an action to force the Secretary to enforce the criminal  
6 penalty provisions of the bill? If they don't, I have no  
7 objection. That is the effect of that deletion, to prohibit a  
8 citizen from bringing such an action.

9 That ought to be something that the Secretary does on his  
10 discretion, not a citizen.

11 Mr. Meyer. The question on number two, since we required  
12 that notice be given the agency, the issue was raised whether  
13 the language should then provide, when notice was given and  
14 within the period the agency acted, that a citizen suit will  
15 not lie, instead of requiring the attorney for the defendant to  
16 go in and prove to the Court that the action has been taken.

17 Senator Muskie. I think we had discussed that specifically  
18 and agreed that the purpose of the notice would be to stimulate  
19 agency action, but that if the citizen still felt that he  
20 wanted to proceed he ought to be able to.

21 Mr. Beyer. The staff feels it can use committee report  
22 language to indicate that the Court can stay.

23 Item number three, is the same kind of thing. I think  
24 it is handled the same way. The agency acts after the time  
25 period has run, and they go to Court, they take the jurisdiction.  
tion.

3 Item number four. We need a couple of words on page 80,  
4 at the end of the sentence on line four, to give the Secretary  
5 a authority to indicate the content and specificity of the  
6 notice so that there is a form for notice, that people can't  
7 send any old thing and say that the agency has notice.

8 The language basically would be, "Such notice shall be  
9 in accordance with regulations prescribed by the Secretary as  
10 to content and specificity".

11 Senator Muskie. There is no objection to that.

12 Mr. Meyer. Item number five on this, we have unduly  
13 restricted the Secretary's authority to appear in these cases,  
14 and it has been suggested that the language on line 15 on page  
15 80 be changed to read, "may intervene as a matter of right"  
16 and strike the rest of it.

17 Under this, the only purpose for which he can intervene is  
18 to present evidence.

19 Senator Muskie. I see no objection to that.

20 Mr. Meyer. Item number six takes care of the Committee  
21 Report language.

22 Senator Muskie. Is there any objection to the changes  
23 proposed by the staff?

24 The Chairman. Is there any further discussion? Without  
25 objection the suggestions that have been made by the staff  
26 will be incorporated.

27 Senator Muskie. Are there any other provisions of the Act?

4  
1 Mr. Billings. Mr. Chairman, there are a couple of parts  
2 of Title II that require specific action, such as labeling, and  
3 so on. Those provisions will require a time delay after enact-  
4 ment. We are going to have to put in a general provision saying  
5 certain sections won't be effective until ninety days after  
6 enactment, to give the industry time to make up the labels and  
7 start installing them in cars.

8 That is a general technical change that is needed.

9 Senator Muskie. May I suggest that the committee give the  
10 staff authority to make those changes?

11 The Chairman. Yes.

12 Mr. Billings. On page 88, section 11, is another part  
13 that the committee has not given attention to.

14 Senator Muskie. That is the money. Do we have figures?  
15 Have you information from the Administration?

16 Mr. Billings. We are seriously objecting to it right now.  
17 Mr. Chairman.

18 Senator Muskie. That is the administration realm?

19 Mr. Billings. Yes.

20 Mr. Chairman, while we are waiting on getting that informa-  
21 tion, I call the attention of the Members to section 409 on  
22 page 86.

23 The Chairman. Will you turn, please, to page 86?

24 Mr. Billings. It provides that the technology that is  
25 developed will be available so that the -- well, in particular

5 1 American Motors will have access to GM's technology. In gen-  
2 eral, American electric power will have access to TVA's tech-  
3 nology. This is drafted by the Justice Department in consulta-  
4 tion with Senator Hart's Anti-trust and Monopoly Subcommittee  
5 and the staff of the committee.

6 Senator Muskie. With respect to the automobile section  
7 I think this is indispensable. American Motors could conceiv-  
8 ably go under unless this licensing provision is available to  
9 enable them to take advantage of the technology developed by  
10 the larger companies.

11 Senator Jordan. They would have to pay a royalty?

12 Senator Muskie. That is right. It is provided on line  
13 20. This has been cleared with the Justice Department and with  
14 the Senate Committee on Judiciary. We want to bring it to the  
15 attention of the committee.

16 The Chairman. Without objection, then, we will agree.

17 Mr. Billings. Mr. Chairman, back to money. The staff  
18 has circulated a cut-out of the authorization of the House bill  
19 for comparative purposes, and a chart prepared by the Adminis-  
20 tration at the request of the Chairman on the cost of imple-  
21 menting this legislation without regard to section 104.

22 We gave them copies of the bill that we were working from.  
23 It included how many people it would take and how much money  
24 it would cost. The staff recommends \$150 million in 1971.  
25 \$250 million in 1972, and \$325 million in 1973.



6 1 Senator Muskie. Is that based on this chart?

2 Mr. Billings. That is right: 4 million over '71, 17 over  
3 '72, and 12 over '73.

4 Senator Muskie. Did you make it clear to the Administra-  
5 tion that in the view of this committee this act cannot be  
6 implemented without adequate staffing, and that the staffing  
7 recommendations must be related to that objective? I just  
8 can't see, and I think we agreed on this earlier -- I see writ-  
9 ing a law that holds out promises and establishes deadlines  
10 that we haven't got the manpower and the funding to implement.

11 Do the Administration figures address themselves to that  
12 goal?

13 Mr. Billings. Yes, sir. As you will notice on the first  
14 line in each column, positions, the grand total for 1971 is  
15 1741 people; the agency presently has slightly over 900 people  
16 on this payroll. This would be an increase in this year of  
17 900 people.

18 Senator Muskie. I move the approval of these figures and  
19 inclusion in the report of the table submitted by the Adminis-  
20 tration as justification for it, plus strong language addressed  
21 to the Senate and the Congress that these are the minimum if  
22 this act is to be made to work.

23 The Chairman. Is this agreeable?

24 Mr. Royce. Do you have the figures that you can read on  
25 page 88, line 14, 15 and 16?

7 1 Mr. Billings. On line 14 and the following. \$150 million  
2 for the fiscal year ending June 30, 1971. Line 15, June 30  
3 1971, \$250 million for the fiscal year ending June 30, 1972.  
4 And \$350 million for the fiscal year ending June 30, 1973.

5 Senator Muskie. It is a total of \$725 million.

6 Mr. Billings. Yes.

7 Senator Muskie. How much does it exceed the current  
8 amount?

9 Mr. Billings. It is an increase of \$16 million over the  
10 authorization, for fiscal 1970. It is an increase of about  
11 \$44 million over the budget request for fiscal 1971.

12 Mr. Meyer. It exceeds the House by \$150 million.

13 Senator Muskie. Is there anything else in the bill?

14 Senator Cooper. Mr. Chairman.

15 The Chairman. Yes, Senator Cooper.

16 Senator Cooper. On this amendment on Judiciary review,  
17 Mr. Jorling, on the basis of the discussions we had yesterday,  
18 prepared language which he gave to me last night. I have gone  
19 over it. It needs some changes in the language -- I don't mean  
20 in the print. I would like to go over it this afternoon and  
21 clean it up a little bit and give it to the staff and give it  
22 to you and give it to Senator Spong and anybody who wants it.

23 Senator Muskie. That is Judiciary review on the automobile  
24 deadline?

25 Senator Cooper. Yes.

1 Senator Muskie. I move that the staff be authorized to do  
2 that. Mr. Chairman.

3 The Chairman. Without objection.

4 Senator Muskie. Any other questions on the bill?

5 Senator Boggs. One thing on the report, Mr. Chairman.

6 I hope that there will be ample opportunity for members to see  
7 the draft.

8 Senator Muskie. I think by reporting it out today we make  
9 that possible.

10 The Chairman. Yes, we will have the time.

11 Senator Muskie. Are there any questions on Title I?

12 The Chairman. Any questions on Title I?

13 Senator Muskie. I move that the bill be reported, Mr.  
14 Chairman.

15 Senator Boggs. I second it.

16 The Chairman. Senator Muskie moves that the bill, as  
17 amended in the full committee, be reported.

18 Senator Muskie. May I suggest, Mr. Chairman, that Members  
19 not present be polled so that they may have an opportunity, if  
20 they wish, to express their position on the bill?

21 The Chairman. Yes, that will be understood.

22 Senator Boggs has seconded the motion. I presume that  
23 you will want a roll call? I think it would be perhaps helpful.  
24 We will call the roll.

25 Mr. Royce. Mr. Baker?

1 Senator Cooper. Aye.

2 Mr. Royce. Mr. Bayh?

3 Senator Muskie. He is voting Aye.

4 Mr. Royce. Mr. Boggs?

5 Senator Boggs. Aye.

6 Mr. Royce. Mr. Cooper?

7 Senator Cooper. Aye.

8 Mr. Royce. Mr. Dole?

9 Senator Gurney. Aye.

10 Mr. Royce. Mr. Eagleton?

11 Senator Muskie. Aye.

12 Mr. Royce. Mr. Gravel?

13 The Chairman. Aye.

14 Mr. Royce. Mr. Gurney?

15 Senator Gurney. Aye.

16 Mr. Royce. Mr. Jordan?

17 Senator Jordan. Aye. I was going to say that I was  
18 going to vote "Aye" for Senator Young, but I wish you would  
19 check that with him.

20 Mr. Royce. Mr. Montoya?

21 The Chairman. Aye.

22 Mr. Royce. Mr. Muskie?

23 Senator Muskie. Aye.

24 Mr. Royce. Mr. Packwood?

25 The Chairman. Aye.

1 Mr. Royce. Mr. Randolph?

2 Senator Randolph. Aye.

3 Mr. Royce. Mr. Young?

4 Senator Jordan. Aye.

5 Mr. Royce. Mr. Spang?

6 Senator Jordan. Aye.

7 Senator Muskie. Mr. Chairman, I would like to express my  
8 appreciation to the committee for that I think has been an  
9 unexampled performance dealing with this bill. It is a tough  
10 bill. Senator Baker described it perhaps as having the most  
11 serious implications in a domestic sense than almost any other  
12 bill that may be considered by this session of the Congress,  
13 and the move to do it is a real tribute to every member of this  
14 committee which has participated in it and I would like to  
15 express my personal appreciation and gratification for the  
16 cooperation we have had.

17 The Chairman. I am grateful for those words from Senator  
18 Muskie as Chairman of the Subcommittee on Air and Water Pollu-  
19 tion Control.

20 I personally, and I want the record to physically reflect  
21 my feeling toward him and those members of the subcommittee who  
22 joined by the aid of the staff, produced a measure through  
23 diligence that came before the full committee. And then the  
24 members of the subcommittee, continuing to work their will with  
25 the members of the full committee have brought the reporting

11 1 of this measure to the Senate.

2 I, of course, have full confidence in every member of this  
3 committee. I know that the members have acted freely in  
4 expressing themselves and in voting on the issues. I am not  
5 one to give attention to pressures. We talk with people, we  
6 counsel with people, and this is a democratic dialogue. During  
7 all of the hearings in the subcommittee and in the full commit-  
8 tee and the markups and the conferences, I think we have acted  
9 in a way to reflect credit upon not only this committee, but  
10 the Senate itself.

11 I know that we now, as we bring to the floor this measure,  
12 will recognize the rights of all members of this committee to  
13 offer amendments, just as the nonmembers of this committee  
14 would have that right and responsibility in their individual  
15 capacities.

16 So, Senator Muskie, to you and to all members of the  
17 committee, the Chairman of the full committee is grateful for  
18 the attention to this very complex subject. I reinforce what  
19 Senator Muskie has said. Senator Baker did say we may be  
20 reporting from this committee the most significant economic  
21 measure of the 91st Congress.

22 Senator Muskie. May I express a special word of apprecia-  
23 tion to the staff on both sides of the aisle. I perhaps am  
24 more aware than any other member of the committee how closely  
25 they worked together on a nonpartisan basis, contributing to

12 1 the work of the bill. I know they have spent long hours read-  
2 ing with each other, and that has been very important in the  
3 final work.

4 Senator Cooper. Mr. Chairman, I defer to Senator Boggs  
5 as the ranking member of the subcommittee, but I am going to  
6 defer to him later.

7 I just want to say that I agree with the statements which  
8 have been made by Senator Muskie and Senator Randolph, the  
9 Chairman of our committee. I go farther than saying that this  
10 may be the most significant measure in a domestic sense of this  
11 Congress. It may be the most significant measure in the domes-  
12 tic sense of legislation in any Congress. It is a very complex  
13 bill. For me, it has been an educational process. I think we  
14 have all worked together, and I like the way every member of  
15 the committee has entered into the discussion. I am very proud  
16 of our Minority side as well as your side, and I think the staff  
17 deserves tremendous credit.

18 Again, Senator Muskie has been the leader on these measures  
19 for five or six years, and to him and to Senator Boggs by my  
20 side I pay a deep tribute.

21 Senator Boggs. Thank you.

22 The Chairman. I can't speak for others, but I know that  
23 when there was a difference of opinion as expressed on roll  
24 call with the Chairman of our subcommittee, that that difference  
25 of opinion was recorded. Because the members in question had

13 strong feelings. They have respect, of course, for our Chair-  
14 man of the subcommittee. It was in no wise lessened because of  
15 the opposite point of view.

16 Senator Boggs. Mr. Chairman, I just want to add a word  
17 to second what has been said by the distinguished Chairman of  
18 the full committee, the Chairman of the subcommittee, and  
19 Senator Cooper, the ranking Minority member. As a ranking  
20 Minority member of the subcommittee, I think we have found  
21 great satisfaction in working together on both sides of this  
22 committee and with the members of the staff on both sides. Very  
23 able staff, in developing and reporting to the Senate this very  
24 significant and necessary and important piece of legislation.

25 We have had a great challenge to meet the great job that  
has to be done. That is why this legislation has taken the  
time it has in hearings and in careful and patient delibera-  
tions under the leadership of the Chairman of the subcommittee,  
Senator Muskie, and under your own leadership as Chairman of  
the full committee. I certainly compliment and express appre-  
ciation to you both as I do to each and every member of the  
whole committee, subcommittee and full committee.

It is a privilege to work with them. I just want to say  
that I hope that we can go to the Senate floor and from the  
Senate floor go forward into conference with a completed piece  
of legislation that will effectively meet the challenge that  
faces our country in this area.



14 1 The Chairman. Before we leave, I want to stress all those  
2 words that have been spoken in commendation of the staff, all  
3 members of the staff, for their diligence, for their long hours  
4 and for their general application to the duties which they  
5 have performed.

6 Mr. Billings. I just want to understand that the staff  
7 does have the authority to make the necessary technical changes  
8 in the bill and the technical change defined as anything less  
9 than a billion dollars.

10 The Chairman. That is correct.

11 Senator Gurney. As one member of the committee, and prob-  
12 ably the first big piece of legislation that I have worked on  
13 in the Senate, I have found out that the work of the committee  
14 on this bill probably had a better give and take among members  
15 and an understanding of different positions and a willingness  
16 to try to work out these differences than any committee I have  
17 served on. It has been a refreshing and wholesome experience  
18 for me. I have enjoyed it.

19 Senator Muskie. Mr. Chairman, I think this might be  
20 unsaid, but we ought to say it. It is our intention to report  
21 a clean bill, and I think the staff ought to circulate all  
22 members of the committee to see if they would like to cosponsor.  
23 I would assume they would, but I would not want to take it for  
24 granted.

25 Mr. Billings. Perhaps we could request sponsors of other

15 1 air pollution legislation that are not on this committee.

2 Senator Scott, for instance, introduced the Administration bill.

3 Senator Muskie. Yes, I think so, if there is no objection.

4 The Chairman. No objection. I thank you gentlemen very  
5 much.

6 (Whereupon, at 12:45 p.m., the hearing was concluded.)

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